



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for SB300 Sponsored by Senator Dismang

Subtitle PROHIBITING PAROLE FOR A PERSON CONVICTED OF THE OFFENSE OF POSSESSION OF A FIREARM BY CERTAIN PERSONS UNDER CERTAIN CIRCUMSTANCES; AND TO DECLARE AN EMERGENCY.

Impact Summary¹ Major, requiring budgetary increases for Arkansas Division of Correction inmate costs and construction costs for additional beds.

Change from Current Law² Amends Arkansas Code Annotated § 16-93-609, Effect of more than one conviction for certain felonies - Definition, to add a new subsection which eliminates eligibility for parole for a person who commits the offense of possession of firearms by certain persons, A.C.A. § 5-73-103, in which the offense falls under the Class B felony provision of A.C.A. § 5-73-103.

A.C.A. § 5-73-103 is punishable as either a Class A misdemeanor, a Class D felony, or a Class B felony. The proposed bill applies only to those offenses punishable as a Class B felony under A.C.A. § 5-73-103 (c)(1). Under current law and the proposed bill, Possession of a firearm by certain persons is a class B felony if (A) the person has a prior violent felony conviction; (B) the person's current possession of a firearm involves the commission of another crime; or (C) the person has previously been convicted under this section or a similar provision from another jurisdiction. [See attached for a complete reprint of A.C.A. § 5-73-103, Possession of a firearm by certain persons.]

Impact Information The proposed bill increases the length of stay for an offender sentenced to the Division of Correction (ADC) pursuant to A.C.A. § 5-73-103 (c)(1), Possession of firearms by certain persons, Class B felony. Currently, A.C.A. § 5-73-103 (c)(1) is ranked as a Seriousness Level 5, which falls below the transfer-eligibility line. Pursuant to A.C.A. § 16-93-614, Parole eligibility- Offenses committed after January 1, 1994 – Definition, for an offense which falls below the transfer eligibility line, an offender is eligible for transfer to community supervision after having served one-third (1/3), with credit for meritorious good time, of his or her sentence.

The following projection was prepared with the help of JFA Associates, Denver, CO, using the Wizard Microsimulation Projection Model. This impact assessment is based on data from the current prison population projection using ADC data from the calendar year ending December 31, 2019.

¹ This impact assessment was prepared 3/16/2021 8:36 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 A 6-30 years; up to \$15,000
Class B 5-20 years; up to \$15,000

Class C 3-10 years; up to \$10,000
Class D 0-6 years; up to \$10,000
Unclassified As specified in statute

Misdemeanors

Class A Up to 1 year; up to \$2,500
Class B Up to 90 days; up to \$1,000
Class C Up to 30 days; up to \$500

The projected impact on the resources of ADC is shown in the following table. The impact represents the increase in the current baseline ADC population over the next ten-year period. Additional budgetary requirements are calculated using \$22,716.20 as the difference in annual cost of care per inmate. This impact is limited to the effect of this proposed bill, meaning the cost listed is that which is above and beyond projected baseline prison population growth. Further, this projected impact does not include any costs associated with building new prison beds.

In order to determine the annual increase in population, an ADC admissions file was created containing those inmates who were admitted to prison in the calendar year ending December 31, 2019 and who were serving a sentence for A.C.A. § 5-73-103, Class B felony. The sentences of those offenders were then analyzed to determine their projected length of stay under current parole eligibility laws. The length of stay under existing law was subtracted from the proposed length of stay of 100% to determine the “increased length of stay” under the proposed bill. This was applied to the total number of offenders in the admissions file to determine the increase in inmate population. Finally, time that the selected group of offenders would spend in custody on a parole violation was considered and the impact was reduced to offset costs associated with this time. The following table details the results of this analysis.

Year	Annual Increase in Population	Additional Annual Cost of Inmate Care
2021	0	-
2022	23	\$ 272,594.40
2023	91	\$ 454,324.00
2024	528	\$ 8,882,034.20
2025	860	\$ 15,855,907.60
2026	1,168	\$ 22,398,173.20
2027	1,467	\$ 29,621,924.80
2028	1,742	\$ 35,755,298.80
2029	2,014	\$ 42,070,402.40
2030	2,212	\$ 46,272,899.40
2031	2,413	\$ 51,384,044.40
10-year total:		\$ 252,967,603.20

A.C.A. § 5-73-103 - Possession of firearms by certain persons.

(a) Except as provided in subsection (d) of this section or unless authorized by and subject to such conditions as prescribed by the Governor, or his or her designee, or the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives, or other bureau or office designated by the United States Department of Justice, no person shall possess or own any firearm who has been:

- (1) Convicted of a felony;
- (2) Adjudicated mentally ill; or
- (3) Committed involuntarily to any mental institution.

(b)

(1) Except as provided in subdivisions (b)(2) and (3) of this section, a determination by a jury or a court that a person committed a felony constitutes a conviction for purposes of subsection (a) of this section even though the court suspended imposition of sentence or placed the defendant on probation.

(2) Subdivision (b)(1) of this section does not apply to a person whose case was dismissed and expunged under § 16-93-301 et seq. or § 16-98-303(g).

(3) The determination by the jury or court that the person committed a felony does not constitute a conviction for purposes of subsection (a) of this section if the person is subsequently granted a pardon explicitly restoring the ability to possess a firearm.

(c)

(1) A person who violates this section commits a Class B felony if:

- (A) The person has a prior violent felony conviction;
- (B) The person's current possession of a firearm involves the commission of another crime; or
- (C) The person has been previously convicted under this section or a similar provision from another jurisdiction.

(2) A person who violates this section commits a Class D felony if he or she has been previously convicted of a felony and his or her present conduct or the prior felony conviction does not fall within subdivision (c)(1) of this section.

(3) Otherwise, the person commits a Class A misdemeanor.

(d) The Governor may restore without granting a pardon the right of a convicted felon or an adjudicated delinquent to own and possess a firearm upon the recommendation of the chief law enforcement officer in the jurisdiction in which the person resides, so long as the underlying felony or delinquency adjudication:

- (1) Did not involve the use of a weapon; and
- (2) Occurred more than eight (8) years ago.

History

Acts 1975, No. 280, § 3103; 1977, No. 360, § 18; A.S.A. 1947, § 41-3103; Acts 1987, No. 74, § 1; 1994 (2nd Ex. Sess.), No. 63, § 1; 1995, No. 595, § 1; 1995, No. 1325, § 1; 2001, No. 1429, § 1; 2009, No. 1491, § 1.