



*Arkansas
Sentencing
Commission*

**Impact Assessment for HB1114
Sponsored by Representative Lowery, Ballinger
C. Fite, Hickerson, et al.**

Subtitle CONCERNING THE CRIMINAL OFFENSE OF PERJURY AND CREATING THE OFFENSE OF CRIMINAL IMPERSONATION IN AN ELECTION.

Impact Summary¹ Minimal, affecting fewer than ten offenders per year.

Change from current law² Amends Arkansas Code § 5-53-102(a), by adding a new course of conduct for which an offender may be charged with Perjury. A person commits perjury if in an official proceeding he or she knowingly applies for or submits an absentee ballot for a city, school district, county, state, or federal election knowing that he or she is unlawfully applying for or unlawfully submitting an absentee ballot. Perjury is a Class C felony.

Amends Arkansas Code Title 5, Chapter 55, Subchapter 6, by creating a new section: § 5-55-602, Criminal impersonation in an election. A person commits the offense of criminal impersonation in an election if he or she knowingly impersonates another person in an attempt to vote in a city, county, state, or federal election. Criminal impersonation in an election is a Class D felony.

Impact Information

The proposed bill creates a new course of conduct for which an offender may be charged with Perjury. Additionally, the proposed bill creates a new offense, Criminal impersonation in an election, a Class C felony. Data is unavailable as to the number of occurrences of these courses of conduct.

The Arkansas Department of Correction (ADC) reports eight (8) inmates currently serving a term of incarceration for violating A.C.A. § 5-53-103, Perjury, as currently written, which covers multiple official proceedings. There are currently eighteen (18) inmates serving a term of incarceration in the ADC for violating A.C.A. § 5-37-208, Criminal Impersonation, a Class D felony. This is a general criminal impersonation code provision which already exists.

Please note: None of these offenders are serving a sentence where Perjury or Criminal Impersonation is the most serious offense.

¹ This impact assessment was prepared (3/26/2015, 3:26 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. § 5-53-101. Definitions.

As used in this subchapter:

(1) (A) "False material statement" means any false statement, regardless of its admissibility under the rules of evidence, which affects or could affect the course or outcome of an official proceeding or the action or decision of a public servant in the performance of any governmental function.

(B) Whether a false statement is material in a given factual situation is a question of law;

(2) (A) "Juror" means a member of any jury, including a grand jury and a petit jury.

(B) "Juror" also includes any person who has been drawn or summoned as a prospective juror;

(3) (A) "Oath" means swearing, affirming, and any other mode authorized by law of attesting to the truth of that which is stated.

(B) A written statement is treated as if made under oath if the written statement:

(i) Was made on or pursuant to a form bearing notice, authorized by law, to the effect that a false statement made pursuant to the form is punishable;

(ii) Recites that it was made under oath, and the declarant was aware of the recitation at the time he or she signed the written statement and intended that the written statement should be considered a sworn statement; or

(iii) Is made, used, or offered with the purpose that it be accepted as compliance with a statute, rule, or regulation which requires a statement under oath or other like form of attestation to the truth of the matter contained in the statement;

(4) (A) "Official proceeding" means a proceeding heard before any legislative, judicial, administrative, or other government agency or official authorized to hear evidence under oath, including any referee, hearing examiner, parole revocation judge, commissioner, notary, or other person taking testimony or depositions in any such proceeding.

(B) "Official proceeding" includes the signing or marking, under oath, of:

(i) A voter registration application;

(ii) An application for absentee ballot; or

(iii) A precinct voter registration list;

(5) "Testimony" includes an oral or written statement, document, or any other material that is or could be offered by a witness in an official proceeding;

(6) "Threat" means a menace, however communicated, to:

(A) Use physical force against any person; or

(B) Harm substantially any person with respect to his or her property, health, safety, business, calling, career, financial condition, reputation, or a personal relationship; and

(7) (A) "Witness" means:

(i) Any person for whose attendance to give testimony at an official proceeding any process has issued; or

(ii) Any person who is holding or plans to hold himself available to give testimony at an official proceeding.

(B) For the purpose of this code, a person is a "witness" if testimony is sought or offered by personal attendance at an official proceeding or by deposition or affidavit.

HISTORY: Acts 1975, No. 280, § 2601; A.S.A. 1947, § 41-2601; Acts 1995, No. 927, § 1; 1995, No. 938, § 1; 2003, No. 1185, § 5; 2013, No. 320, § 1.

A.C.A. § 5-53-102. Perjury generally.

(a) A person commits perjury if in any official proceeding he or she makes a false material statement, knowing it to be false, under an oath required or authorized by law.

(b) Lack of knowledge of the materiality of the statement is not a defense to a charge of perjury.

(c) Perjury is a Class C felony.

HISTORY: Acts 1975, No. 280, § 2602; A.S.A. 1947, § 41-2602.

A.C.A. § 5-37-208. Criminal impersonation.

(a) (1) A person commits criminal impersonation in the first degree if, with the purpose to induce a person to submit to pretended official authority for the purpose to injure or defraud the person, the person:

(A) Pretends to be a law enforcement officer by wearing or displaying, without authority, any uniform or badge by which a law enforcement officer is lawfully distinguished; or

(B) Uses a motor vehicle or motorcycle designed, equipped, or marked so as to resemble a motor vehicle or motorcycle belonging to a federal, state, or local law enforcement agency.

(2) Criminal impersonation in the first degree is a Class D felony.

(b) (1) A person commits criminal impersonation in the second degree if the person does an act in his or her pretended or assumed capacity or character with the purpose to injure, defraud, harass, or intimidate another person and the actor:

(A) Assumes a false identity;

(B) Pretends to be a representative of a person or organization;

(C) Pretends to be an officer or employee of the government other than a law enforcement officer described in subsection (a) of this section;

(D) Pretends that he or she is a law enforcement officer when the person is not a law enforcement officer; or

(E) Pretends to have a handicap or disability.

(2) Criminal impersonation in the second degree is a:

(A) Class D felony if:

(i) The victim of the offense is an animal owner; and

(ii) An animal of the owner is seized as a result of the offense; or

(B) Class A misdemeanor if otherwise committed.

(c) As used in this section:

(1) "Animal" means the same as defined in § 5-62-102; and

(2) "Owner" means the same as defined in § 5-62-102.

HISTORY: Acts 1975, No. 280, § 2310; A.S.A. 1947, § 41-2310; Acts 1991, No. 786, § 3; 1997, No. 1014, § 1; 2013, No. 433, § 1; 2013, No. 1178, § 1.