



Arkansas  
Sentencing  
Commission

**Impact Assessment for HB1437  
Sponsored by Representative Dalby**

**Subtitle** CONCERNING SCHOOL SAFETY.

**Impact Summary**<sup>1</sup> Minimal, affecting fewer than ten offenders per year.

**Change from current law**<sup>2</sup> Amends Arkansas Code Title 6, Chapter 18, Subchapter 1, to create A.C.A. § 6-18-110, Reports by mandated reporters - Failure to notify by mandated reporter - Making a false report. Under the proposed bill, a mandated reporter shall notify law enforcement if he or she has a good faith belief that there is a serious and imminent threat to the health or safety of a student, a school employee, or the public based on a threat made by an individual regarding violence in or targeted at a school that has been communicated to the person in the course of his or her professional duties.

The proposed bill creates the following penalties for failure to notify and making a false report.

- (1) A person who is a mandated reporter commits the offense of failure to notify by a mandated reporter in the first degree if he or she *knowingly* fails to notify law enforcement of a serious and imminent threat of violence in or targeted at a school that has been communicated to him or her in the course of his or her professional duties. Under the proposed bill, failure to notify by a mandated reporter in the first degree is a Class A misdemeanor.
- (2) A person who is a mandated reporter commits the offense of failure to notify by a mandated reporter in the second degree if he or she *recklessly* fails to notify law enforcement of a serious and imminent threat of violence in or targeted at a school that has been communicated to him or her in the course of his or her professional duties. Under the proposed bill, failure to notify by a mandated reporter in the second degree is a Class C misdemeanor.
- (3) A person commits the offense of making a false report if he or she purposely makes a report containing a false allegation to law enforcement knowing the allegation to be false. Under the proposed bill, making a false report is a Class A misdemeanor for a first offense and a Class D felony for subsequent offenses.

The proposed bill also defines mandated reporter and provides immunity from liability for a person who notifies law enforcement, in good faith, of a serious and imminent threat of violence in or targeted at a school that has been communicated to him or her in the course of his or her professional duties.

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<sup>1</sup> This impact assessment was prepared (2/15/2019, 11:44 a.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.

<sup>2</sup> 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

## **Impact Information**

This proposed bill creates a new felony offense and new misdemeanor offenses for which data is unavailable as to the likely number of convictions per year. This impact focuses on the impact on correctional resources of the proposed felony offense. Conduct covered under the proposed felony penalty is potentially criminalized under existing law. [See A.C.A. § 5-54-122, Filing a false report or A.C.A. § 5-71-210 and Communicating a false alarm.] Further, the list of mandated reporters and penalty provisions in this proposed bill very closely mirror those found in the Child Maltreatment Act, A.C.A. § 12-18-101 et seq. See attached for a reprint of these code provisions. Because the felony provision proposed by this bill is potentially covered by felony provisions in existing law, the projected impact of the proposed bill is minimal. The following data is provided for informational purposes.

The Arkansas Department of Correction (ADC) reports 67 inmates currently serving a term of incarceration for a violation of A.C.A. § 5-54-122, Filing a false report. Two (2) of these offenders are serving a sentence for which A.C.A. § 5-54-122 is the most serious offense. ADC reports three (3) inmates currently serving a term of incarceration for a violation of § 5-71-210, Communicating a false alarm. None of these offenders are serving a sentence for which A.C.A. § 5-71-210 is the most serious offense.

The Administrative Office of the Courts reports that for the three year period beginning January 1, 2015 and ending December 31, 2017, there were 106 felony convictions for a violation of A.C.A. § 5-54-122, Filing a false report, as currently written. There were four (4) felony convictions for a violation of A.C.A. § 5-71-210, Communicating a false alarm, as currently written.

**A.C.A. § 5-54-122. Filing false report with law enforcement agency.**

- (a) As used in this section, "report" means any communication, either written or oral, sworn or unsworn.
- (b) A person commits the offense of filing a false report if he or she files a report with any law enforcement agency or prosecuting attorney's office of any alleged criminal wrongdoing on the part of another person knowing that the report is false.
- (c) (1) Filing a false report is a Class D felony if:
  - (A) The alleged criminal wrongdoing is a capital offense, Class Y felony, Class A felony, or Class B felony;
  - (B) The law enforcement agency or prosecuting attorney's office to whom the false report is made has expended in excess of five hundred dollars (\$500) in order to investigate the false report, including the costs of labor;
  - (C) Physical injury results to any person as a result of the false report;
  - (D) The false report is made in an effort by the person filing the false report to conceal his or her own criminal activity; or
  - (E) The false report results in another person being arrested.
- (2) Otherwise, filing a false report is a Class A misdemeanor.

HISTORY: Acts 1989, No. 690, §§ 1-3; 2007, No. 827, § 46.

**A.C.A. § 5-71-210. Communicating a false alarm.**

- (a) A person commits the offense of communicating a false alarm if he or she purposely initiates or circulates a report of a present, past, or impending bombing, fire, offense, catastrophe, or other emergency while knowing that the report is false or baseless and knowing that it is likely to:
  - (1) Cause action of any sort by an official or volunteer agency organized to deal with emergencies;
  - (2) Place any person in fear of physical injury to himself or herself or another person or of damage to his or her property or that of another person; or
  - (3) Cause total or partial evacuation of any occupiable structure, vehicle, or vital public facility.
- (b) (1) (A) Communicating a false alarm is a Class C felony if physical injury to a person results.
- (B) Communicating a false alarm is a Class D felony if:
  - (i) Damage to property results; or
  - (ii) The false alarm communicates a present or impending bombing and is made to or about a public or private educational institution.
- (2)
  - (A) If there is no resulting physical injury or damage to property, communicating a false alarm is a Class A misdemeanor.
  - (B) A second or subsequent offense that would otherwise be a Class A misdemeanor is a Class D felony.
- (c) In addition to any other restitution ordered under § 5-4-205, the court may order that a person who violates this section make restitution to the State of Arkansas or any of its political subdivisions for any cleanup costs associated with the commission of the offense.

HISTORY: Acts 1975, No. 280, § 2911; A.S.A. 1947, § 41-2911; Acts 2001, No. 567, § 1; 2003, No. 1342, § 4.

**A.C.A. § 12-18-201. Failure to notify by a mandated reporter in the first degree.**

- (a) A person commits the offense of failure to notify by a mandated reporter in the first degree if he or she:
  - (1) Is a mandated reporter under this chapter;
  - (2) Has:
    - (A) Reasonable cause to suspect that a child has been subjected to child maltreatment;

- (B) Reasonable cause to suspect that a child has died as a result of child maltreatment; or
- (C) Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment; and

(3) Knowingly fails to notify the Child Abuse Hotline of the child maltreatment or suspected child maltreatment.

(b) Failure to notify by a mandated reporter in the first degree is a Class A misdemeanor.

HISTORY: Acts 2009, No. 749, § 1.

**A.C.A. § 12-18-202. Failure to notify by a mandated reporter in the second degree.**

(a) A person commits the offense of failure to notify by a mandated reporter in the second degree if he or she:

(1) Is a mandated reporter under this chapter;

(2) Has:

(A) Reasonable cause to suspect that a child has been subjected to child maltreatment;

(B) Reasonable cause to suspect that a child has died as a result of child maltreatment; or

(C) Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment; and

(3) Recklessly fails to notify the Child Abuse Hotline of the child maltreatment or suspected child maltreatment.

(b) Failure to notify by a mandated reporter in the second degree is a Class C misdemeanor.

HISTORY: Acts 2009, No. 749, § 1.

**A.C.A. § 12-18-203. Making a false report under this chapter.**

(a) A person commits the offense of making a false report under this chapter if he or she purposely makes a report containing a false allegation to the Child Abuse Hotline knowing the allegation to be false.

(b)

(1) A first offense of making a false report under this chapter is a Class A misdemeanor.

(2) A subsequent offense of making a false report under this chapter is a Class D felony.

HISTORY: Acts 2009, No. 749, § 1.