



ARKANSAS SENTENCING COMMISSION

1302 Pike Avenue, Suite E • North Little Rock, AR 72114
Phone: (501) 682-5001 • Fax: (501) 682-5018

Impact Assessment for HB1417 **Sponsored by Representative Cloud**

Subtitle TO AMEND THE LAW CONCERNING SEXUAL ASSAULT IN THE FOURTH DEGREE.

Impact Summary¹ Cannot be determined. The proposed bill modifies the ages of both the offender and the victim found in A.C.A. § 5-14-127, Sexual assault in the fourth degree. Because data is unavailable as to the likely number of occurrences under the modified provisions, the impact cannot be determined.

Change from Current Law² Amends Arkansas Code Annotated § 5-14-127, Sexual assault in the fourth degree. Under current law, a person commits sexual assault in the fourth degree if the person, being twenty (20) years of age or older, engages in sexual intercourse or deviate sexual activity with another person who is less than sixteen (16) years of age and not the persons spouse or engages in sexual contact with another person who is less than sixteen (16) years of age and not the person’s spouse. Under the proposed bill, a person commits sexual assault in the fourth degree if the person, being *twenty-one (21)* years of age or older, engages in sexual intercourse or deviate sexual activity with another person who is less than *eighteen (18)* years of age and not the persons spouse or engages in sexual contact with another person who is less than *eighteen (18)* years of age and not the person’s spouse. [Amended language is in italics]. The penalties for committing the offense of sexual assault in the fourth degree are unchanged under the proposed bill. Engaging in sexual intercourse or deviate sexual activity prohibited by this section is a Class D felony and engaging in sexual contact prohibited by this section is a Class A misdemeanor. [See attached for a full reproduction of the code as currently written.]

Conduct provisions prohibiting employees of various government agencies from engaging in sexual conduct with individuals under their custody and the associated penalty of a Class D felony are unchanged by the proposed bill.

Impact Information The proposed bill modifies the courses of conduct by which a person can commit the offense of Sexual assault in the fourth degree. Data is unavailable as to the likely number of occurrences of the conduct modified by this proposed bill. For this reason, the impact cannot be determined.

The Arkansas Division of Correction reports 147 inmates serving a term of incarceration for a violation of A.C.A. § 5-14-127, Sexual assault in the fourth degree, Class D felony, as currently written. Fifty-nine (59) of these offenders are serving a sentence for which A.C.A. § 5-14-127 is the most serious offense.

¹ This impact assessment was prepared 2/23/2021 10:15 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

A.C.A. § 5-14-127. Sexual assault in the fourth degree.

(a) A person commits sexual assault in the fourth degree if the person:

(1) Being twenty (20) years of age or older:

(A) Engages in sexual intercourse or deviate sexual activity with another person who is:

(i) Less than sixteen (16) years of age; and

(ii) Not the person's spouse; or

(B) Engages in sexual contact with another person who is:

(i) Less than sixteen (16) years of age; and

(ii) Not the person's spouse; or

(2) Engages in sexual contact with another person who is not the actor's spouse, and the actor is employed with the Division of Correction, Division of Community Correction, Department of Human Services, or any city or county jail, and the victim is in the custody of the Division of Correction, Division of Community Correction, Department of Human Services, or a city or county jail.

(b)

(1) Sexual assault in the fourth degree under subdivisions (a)(1)(A) and (a)(2) of this section is a Class D felony.

(2) Sexual assault in the fourth degree under subdivision (a)(1)(B) of this section is a Class A misdemeanor if the person engages only in sexual contact with another person as described in subdivision (a)(1)(B) of this section.

History

Acts 2001, No. 1738, § 5; 2003, No. 1325, § 1; 2009, No. 630, § 1; 2019, No. 910, § 673.