



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for HB1625 Sponsored by Representative Haak

Subtitle PROHIBITING A SEX OFFENDER FROM RESIDING NEAR A PUBLICLY OWNED PARK OR TRAIL LOCATED ON AN EASEMENT ON PRIVATE LAND.

Impact Summary¹ Cannot be determined. While the impact on correctional resource for a violation of the amended criminal provision is projected to be minimal, there are additional considerations for inmates potentially being held past their parole eligibility date due to lack of an acceptable parole plan. The impact of the proposed change to residency restrictions is unknown. Therefore, the projected impact of the proposed bill cannot be determined.

Change from Current Law² Amends Arkansas Code Annotated § 5-14-128, Registered offender living near school, public park, youth center, daycare, church or other place of worship prohibited, to provide that the term “public park” includes the portion of any privately owned land over which an easement has been granted to the state or a county, city, or town and that is used as part of the public park system of the state or a county, city, or town. [See attached for a complete reprint of A.C.A. § 5-14-128 as currently written.]

Impact Information The proposed bill expands sex offender residency restrictions prohibiting a sex offender from residing near a public park to include some private property. While the convictions for § 5-14-128 do not result in a significant impact on the correctional resources of the state, sex offender residency restrictions can result in extended stays in prison due to lack of an approved parole plan.

The Division of Correction (ADC) reports that there are currently forty-one (41) inmates currently being held past their parole eligibility date due to existing residency restrictions. Further limiting where a sex offender can reside could increase this number. Because data does not exist as to the number of residences which are currently an allowable residence for sex offender but are subject to an easement used as part of a public park system, the projected impact of the proposed bill cannot be determined. The below data is for informational purposes only.

The Administrative Office of the Courts reports that for the three (3) year period beginning January 1, 2017 and ending December 31, 2019, there were twenty-eight (28) convictions for a violation of A.C.A. § 5-14-128, Registered offender living near certain places, as currently written. This data does not distinguish between convictions for living near a park and convictions for residing near other prohibited places such as a school, daycare, or youth center.

The ADC reports that there are two (2) inmates serving a term of incarceration for a violation of A.C.A. § 5-14-128, Registered offender living near certain places, as currently written. One (1) of these offenders is serving a term of incarceration for which A.C.A. § 5-14-128 is the most serious offense. This data does not distinguish between convictions for living near a park and convictions for residing near other prohibited places such as a school, daycare, or youth center.

¹ This impact assessment was prepared 3/18/2021 11:32 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

A.C.A. § 5-14-128. Registered offender living near school, public park, youth center, daycare, or church or other place of worship prohibited.

(a) A sex offender who is required to register under the Sex Offender Registration Act of 1997, § 12-12-901 et seq., and who has been assessed as a:

(1) Level 3 or Level 4 offender may not knowingly reside within two thousand feet (2,000') of the property on which a public or private elementary or secondary school, public park, youth center, or daycare facility is located; or

(2) Level 4 offender may not knowingly reside within two thousand feet (2,000') of a church or other place of worship.

(b) (1) It is not a violation of this section if the property on which the sex offender resides is owned and occupied by the sex offender and was purchased prior to the date on which the public or private elementary or secondary school, public park, youth center, daycare facility, or church or other place of worship was established.

(2) The exclusion in subdivision (b)(1) of this section does not apply to a sex offender who pleads guilty or nolo contendere to or is found guilty of another sex offense after the public or private elementary or secondary school, public park, youth center, daycare facility, or church or other place of worship is established.

(c) (1) (A) With respect to a public or private elementary or secondary school or a daycare facility, it is not a violation of this section if the sex offender resides on property he or she owns prior to July 16, 2003.

(B) With respect to a public park or youth center, it is not a violation of this section if the sex offender resides on property he or she owns prior to July 31, 2007.

(2) (A) The exclusion in subdivision (c)(1)(A) of this section does not apply to a sex offender who pleads guilty or nolo contendere to or is found guilty of another sex offense after July 16, 2003.

(B) The exclusion in subdivision (c)(1)(B) of this section does not apply to a sex offender who pleads guilty or nolo contendere to or is found guilty of another sex offense on or after July 31, 2007.

(3) With respect to a church or other place of worship, it is not a violation of this section if the sex offender resides on property he or she owns prior to July 22, 2015.

(d) A violation of this section is a Class D felony.

(e) (1) A person who is charged with violating this section shall be ordered as a condition of his or her release from custody not to return to the location where he or she was residing that was located within two thousand feet (2,000') of a public or private elementary or secondary school, public park, youth center, daycare facility, or church or other place of worship until the charge is adjudicated.

(2) The court having jurisdiction over the charge may order that the defendant be allowed to return to his or her residence before the adjudication of the charge if good cause is shown.

(f) As used in this section:

(1) "Church or other place of worship" means a physical location that has a primary purpose of facilitating the meeting of persons in order to practice a religion;

(2) "Public park" means any property owned or maintained by this state or a county, city, or town in this state for the recreational use of the public; and

(3) "Youth center" means any building, structure, or facility owned or operated by a not-for-profit organization or by this state or a county, city, or town in this state for use by minors to promote the health, safety, or general welfare of the minors.

History

Acts 2003, No. 330, § 3; 2007, No. 818, § 1; 2009, No. 1406, § 1; 2015, No. 376, § 1.