



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for SB28 Sponsored by Senator Garner

Subtitle TO MAKE RAPE OF A CHILD BY FORCIBLE COMPULSION A CAPITAL OFFENSE.

Impact Summary¹ Cannot be determined. The proposed bill increases the penalty for some courses of conduct that are currently punishable under A.C.A. § 5-14-103, Rape. Data for rape convictions and sentences is not specific as to the age of the victim and the circumstances of the offense. For this reason, the impact cannot be determined.

Change from Current Law² Amends various provisions of the Arkansas Code Annotated regarding the rape of a child by forcible compulsion. Please note that while a large number of code provisions are amended by this proposed bill, only those impacting criminal penalties will be analyzed in this impact assessment.

The proposed bill creates A.C.A. § 5-14-114, Rape of a child by forcible compulsion. Under the proposed bill, a person commits rape of a child by forcible compulsion if he or she engages in sexual intercourse or deviate sexual activity with a child by forcible compulsion. A child means a person who is less than fourteen (14) years of age.

Under current law, rape of a child under fourteen (14) years of age is a Class Y felony, with a mandatory minimum term of imprisonment of twenty-five (25) years. The proposed bill creates A.C.A. § 5-14-114, Rape of a child by forcible compulsion, a capital offense. Under the proposed bill, Rape of a child by forcible compulsion is punishable by death, life imprisonment without parole, or, if the defendant was younger than eighteen (18) years of age at the time he or she committed the offense, life imprisonment with the possibility of parole after serving a minimum of thirty (30) years imprisonment. Attempt, solicitation, or conspiracy to commit the offense of Rape of a child by forcible compulsion is a Class A felony under the proposed bill.

The proposed bill also amends provisions of Title 16 of the Arkansas Code to make offenders convicted of rape of a child by forcible compulsion ineligible for parole and amends various provisions regarding capital offenses and violent and sex offense designations to include the newly created offense of Rape of a child by forcible compulsion. Under current law, rape is designated as a sexual and violent offense and is not eligible for parole until the offender has served a minimum of seventy percent (70%) of his or her sentence.

Impact Information The proposed bill increases the penalty for some courses of conduct that are currently punishable under A.C.A. § 5-14-103, Rape. Data for rape convictions and sentences are not specific as to the age of the victim and the circumstances of the offense. For this reason, the impact cannot be determined. The

¹ This impact assessment was prepared 2/12/2021 2:10 PM 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

data below is provided for informational purposes only.

The Administrative Office of the Courts (AOC) reports that for the three (3) year period beginning January 1, 2017 and ending December 31, 2019, there were 531 convictions for a violation of A.C.A. § 5-14-103, Rape, a Class Y felony, as currently written. AOC data does not distinguish between the various courses of conduct by which a person can commit the offense of rape.

The Arkansas Division of Correction reports 1,541 inmates currently serving a term of incarceration for a violation of A.C.A. § 5-14-103, Rape, a Class Y felony, as currently written. 1,501 of these offenders are serving a sentence for which A.C.A. § 5-14-103, Rape, is the most serious offense. The below table sets out the length of sentence for offenders currently serving a sentence for which A.C.A. § 5-14-103, Rape, is the most serious offense.

Length of Sentence	Number of Offenders
Life or Life without Parole	169
≥80 years	57
≥ 60 years but < 80 years	81
≥ 40 years but < 60 years	262
≥ 25 years but < 40 years	541
< 25 years	391