



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for HB1502 **Sponsored by Representative Gazaway**

Subtitle TO CREATE THE CRIMINAL OFFENSE OF SEXUAL SOLICITATION OF A MINOR; TO AMEND THE LAW CONCERNING THE HUMAN TRAFFICKING VICTIM SUPPORT FUND; AND TO AMEND THE LAW CONCERNING THE SAFE HARBOR FUND FOR SEXUALLY EXPLOITED CHILDREN.

Impact Summary¹ Minimal, impacting fewer than ten (10) offenders per year.

Change from Current Law² The proposed bill amends Arkansas Code Title 5, Chapter 70, Subchapter 1, to add an additional section, § 5-70-107, Sexual solicitation of a minor. Under the proposed bill, a person commits the offense of Sexual solicitation of a minor if he or she (1) offers or agrees to pay a fee or provide a thing of value to a minor to engage in sexual activity with the minor, (2) offers or agrees to pay a fee or provide a thing of value to another person for the purpose of engaging in sexual activity with the minor, or (3) solicits, offers, or agrees to accept a fee or a thing of value from another person for the purpose of allowing the other person to engage in sexual activity with a minor. The proposed bill also provides specific occurrences or mental states to be excluded from defense to a prosecution for this offense.

Under the proposed bill, the penalty for the new offense is a Class B felony and a fine of one thousand dollars. The proposed bill directs the distribution of the fine payments collected under § 5-70-107. The proposed bill also amends the provisions of Arkansas Code concerning the Safe Harbor Fund for Sexually Exploited Children and the Human Trafficking Victim Support Fund to include § 5-70-107 as an offense for which fine payments are a revenue source for the funds.

Impact Information Because the proposed bill creates a new offense, data is unavailable as to the likely number of convictions for the new offense. Some conduct under the proposed bill is potentially already criminalized under existing law for certain occurrences of A.C.A. § 5-14-110, Sexual indecency with a child, and certain occurrences of A.C.A. § 5-70-103, Sexual solicitation. The following data is provided for informational purposes only.

¹ This impact assessment was prepared 3/28/2023 1:50 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

The Administrative Office of the Courts (AOC) reports that for the three (3) year period beginning on 1/1/2020 and ending on 12/31/2022, there were 164 felony convictions of A.C.A. § 5-14-110, Sexual indecency with a child. For that same time period, there were zero (0) felony convictions and three (3) misdemeanor convictions for A.C.A. § 5-70-103, Sexual solicitation. The Division of Correction (ADC) reports that as of December 2, 2022, there are currently 102 offenders serving a term of incarceration for a violation of A.C.A. § 5-14-110, Sexual indecency with a child. Of these, 33 are serving a term of incarceration for which A.C.A. § 5-14-110 is the primary offense.

The proposed bill creates a new criminal offense for which the likely number of occurrences cannot be determined. However, other similar provisions have not historically had a significant impact on correctional resources. For this reason, the proposed bill is projected to have a minimal impact on correctional resources.