



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for HB1564 **Sponsored by Representative Unger**

Subtitle TO AMEND THE LAW CONCERNING SEXUAL SOLICITATION; AND TO CHANGE THE CLASSIFICATION OF THE OFFENSE OF SEXUAL SOLICITATION.

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

Change from Current Law² The proposed bill amends Arkansas Code Annotated, § 5-70-103, Sexual solicitation, by standardizing the penalty for all occurrences of § 5-70-103 to a Class D felony. Under the current statute, the penalty for a conviction of § 5-70-103 is an unclassified misdemeanor.

Impact Information The proposed bill increases the penalty for all occurrences of A.C.A. § 5-70-103, Sexual solicitation, from an unclassified misdemeanor to a Class D felony. 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 three (3) misdemeanor convictions of A.C.A. § 5-70-103, Sexual solicitation. Please note that not all courts report misdemeanor convictions to the Administrative Office of the Courts. However, the low number of reported convictions for the offense as currently written makes it unlikely that the proposed bill will result in a significant impact to correctional resources

¹ This impact assessment was prepared 3/16/2023 7:05 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. § 5-70-103. Sexual solicitation.

- (a) A person commits the offense of sexual solicitation if he or she:
 - (1) Offers or agrees to pay a fee to a person to engage in sexual activity with him or her or another person; or
 - (2) Solicits or requests a person to engage in sexual activity with him or her in return for a fee.
- (b) Sexual solicitation is an unclassified misdemeanor with the following sentences:
 - (1) For a first offense:
 - (A) No more than ninety (90) days' imprisonment;
 - (B) A fine of no more than two thousand dollars (\$2,000); or
 - (C) Both imprisonment and a fine; and
 - (2) For a second or subsequent offense:
 - (A) No more than one (1) year of imprisonment;
 - (B) A fine of no more than three thousand five hundred dollars (\$3,500); or
 - (C) Both imprisonment and a fine.
- (c) It is an affirmative defense to prosecution under this section that the person engaged in an act of sexual solicitation as a result of being a victim of trafficking of persons, § 5-18-103.
- (d) In addition to any other sentence authorized by this section, a person who violates this section by offering to pay, agreeing to pay, or paying a fee to engage in sexual activity upon conviction shall be ordered to pay a fine of two hundred fifty dollars (\$250) to be deposited into the Safe Harbor Fund for Sexually Exploited Children.

History

Acts 1975, No. 280, § 3003; A.S.A. 1947, § 41-3003; Acts 1999, No. 591, § 1; 2009, No. 428, § 1; 2013, No. 132, § 5; 2013, No. 133, § 5; 2013, No. 1157, § 4; 2013, No. 1257, § 6; 2017, No. 765, § 2.