



## ARKANSAS SENTENCING COMMISSION

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### Impact Assessment for HB1623 Sponsored by Representative Tosh

**Subtitle** TO AMEND ARKANSAS LAW CONCERNING THE OFFENSE OF FLEEING BY MEANS OF A VEHICLE CONVEYANCE.

**Impact Summary**<sup>1</sup> Cannot be determined. The proposed bill increases the penalty for some occurrences of Fleeing by means of any vehicle or conveyance from a misdemeanor to a felony. Because the increase in penalty is based on specific conduct not differentiated in the current statute, the projected impact cannot be determined.

**Change from Current Law**<sup>2</sup> The proposed bill amends Arkansas Code Annotated § 5-54-125, Fleeing, to increase the penalties for certain occurrences of fleeing by means of any vehicle or conveyance. Pursuant to A.C.A. § 5-54-125, if a person knows that his or her immediate arrest or detention is being attempted by a duly authorized law enforcement officer, it is the lawful duty of the person to refrain from fleeing, either on foot or by means of any vehicle or conveyance. Under current law, fleeing by means of any vehicle or conveyance is either a Class A misdemeanor, a Class C felony, or a Class B felony, depending on the circumstances of the offense. The proposed bill increases the penta fleeing, *if the person operated the vehicle or conveyance in excess of the posted speed limit.* [New language indicated by *italics.*] [See attached for a complete reprint of A.C.A. § 5-54-125.]

**Impact Information** The proposed bill increases the penalty for only some conduct of A.C.A. § 5-54-125 (d)(1), Fleeing by means of any vehicle or conveyance, from a Class A misdemeanor to a Class D felony. While the Administrative Office of the Courts (AOC) does report on misdemeanor convictions, misdemeanors are often disposed of in District Court. Not all district courts report data to the AOC. For this reason, the number of misdemeanor Fleeing convictions is likely higher than reported. Therefore, the projected impact of the proposed bill cannot be determined. The data below is provided only for informational purposes.

The AOC reports that for the three (3) year period beginning on January 1, 2020 and ending on December 31, 2022, there were 45 convictions for a violation of A.C.A. § 5-54-125 (d)(1), Fleeing by means of any vehicle or conveyance, a Class A misdemeanor.

<sup>1</sup> This impact assessment was prepared 3/24/2023 8:35 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.

<sup>2</sup> 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. § 5-54-125. Fleeing.**

(a) If a person knows that his or her immediate arrest or detention is being attempted by a duly authorized law enforcement officer, it is the lawful duty of the person to refrain from fleeing, either on foot or by means of any vehicle or conveyance.

(b) Fleeing is a separate offense and is not considered a lesser included offense or component offense with relation to other offenses which may occur simultaneously with the fleeing.

(c) Fleeing on foot is considered a Class C misdemeanor, except under the following conditions:

(1) If the defendant has been previously convicted of fleeing on foot anytime within the past one-year period, a subsequent fleeing on foot offense is a Class B misdemeanor;

(2) If property damage occurs as a direct result of the fleeing on foot, the fleeing on foot offense is a Class A misdemeanor; or

(3) If serious physical injury occurs to any person as a direct result of the fleeing on foot, the fleeing on foot offense is a Class D felony.

(d)

(1)

(A) Fleeing by means of any vehicle or conveyance is considered a Class A misdemeanor.

(B) A person convicted under subdivision (d)(1)(A) of this section shall serve a minimum of two (2) days in jail.

(C) A person convicted under subdivision (d)(1)(A) of this section who operated the vehicle or conveyance in excess of the posted speed limit shall serve a minimum of thirty (30) days in jail.

(2) Fleeing by means of any vehicle or conveyance is considered a Class C felony if, under circumstances manifesting extreme indifference to the value of human life, a person purposely operates the vehicle or conveyance in such a manner that creates a substantial danger of death or serious physical injury to another person.

(3) If serious physical injury to any person occurs as a direct result of fleeing by means of any vehicle or conveyance, the fleeing by means of any vehicle or conveyance offense is a Class B felony.

(e) In addition to any other penalty, if the defendant is convicted of violating subsection (d) of this section, the court shall instruct the Office of Driver Services of the Department of Finance and Administration to suspend or revoke the defendant's driver's license for at least six (6) months but not more than one (1) year.

**History**

Acts 1977, No. 196, §§ 1, 2; A.S.A. 1947, §§ 41-2822, 41-2823; Acts 1993, No. 1217, § 1; 1995, No. 410, § 1; 2009, No. 1304, § 1; 2017, No. 887, § 1; 2021, No. 722, § 1.