

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 1756

5 By: Representative Collins
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For An Act To Be Entitled

8 AN ACT CONCERNING THE OFFENSE OF LOITERING; AND FOR
9 OTHER PURPOSES.
10

Subtitle

11 CONCERNING THE OFFENSE OF LOITERING.
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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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18 SECTION 1. Arkansas Code § 5-71-213 is amended to read as follows:
19 5-71-213. Loitering.

20 (a) A person commits the offense of loitering if he or she:

21 (1) Lingers, remains, or prowls in a public place or the
22 premises of another without apparent reason and under circumstances that
23 warrant alarm or concern for the safety of persons or property in the
24 vicinity and, upon inquiry by a law enforcement officer, refuses to identify
25 himself or herself and give a reasonably credible account of his or her
26 presence and purpose;

27 (2) Lingers, remains, or prowls in or near a school building,
28 not having any reason or relationship involving custody of or responsibility
29 for a student and not having written permission from anyone authorized to
30 grant permission;

31 (3)(A) Lingers or remains ~~in a public place~~ on a sidewalk,
32 roadway, or public right of way, in a public parking lot or public
33 transportation vehicle or facility, or on the premises of another private
34 property, for the purpose of begging requesting any type of assistance in a
35 manner:

36 (i) A reasonable person would consider harassing,



1 seriously annoying, or likely to cause alarm to the other person; or

2 (ii) Under circumstances that create a traffic
3 hazard or impediment.

4 (B) In determining whether a person has acted in a manner
5 a reasonable person would consider harassing, seriously annoying, or likely
6 to cause alarm, it is a rebuttable presumption that the request for
7 assistance is harassing, seriously annoying, or likely to cause alarm if it
8 occurred after sunset or before sunrise;

9 (4) Lingers or remains in a public place for the purpose of
10 unlawful gambling;

11 (5) Lingers or remains in a public place for the purpose of
12 engaging or soliciting another person to engage in prostitution or deviate
13 sexual activity;

14 (6) Lingers or remains in a public place for the purpose of
15 unlawfully buying, distributing, or using a controlled substance;

16 (7) Lingers or remains in a public place for the purpose of
17 unlawfully buying, distributing, or consuming an alcoholic beverage;

18 (8) Lingers or remains on or about the premises of another for
19 the purpose of spying upon or invading the privacy of another; or

20 (9) Lingers or remains on or about the premises of any off-site
21 customer-bank communication terminal without any legitimate purpose.

22 (b) Among the circumstances that may be considered in determining
23 whether a person is loitering are that the person:

24 (1) Takes flight upon the appearance of a law enforcement
25 officer;

26 (2) Refuses to identify himself or herself; or

27 (3) Manifestly endeavors to conceal himself or herself or any
28 object.

29 (c) Unless flight by the actor or another circumstance makes it
30 impracticable, prior to an arrest for an offense under subdivision (a)(1) of
31 this section a law enforcement officer shall afford the actor an opportunity
32 to dispel any alarm that would otherwise be warranted by requesting the actor
33 to identify himself or herself and explain his or her presence and conduct.

34 (d) It is a defense to a prosecution under subdivision (a)(1) of this
35 section if:

36 (1) The law enforcement officer did not afford the defendant an

1 opportunity to identify himself or herself and explain his or her presence
2 and conduct; or

3 (2) It appears at trial that an explanation given by the
4 defendant to the law enforcement officer was true and, if believed by the law
5 enforcement officer at that time, would have dispelled the alarm.

6 (e) Loitering is a Class C misdemeanor.
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