

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

A Bill

SENATE BILL 702

5 By: Senators E. Williams, Maloch, Irvin, J. Dismang
6 By: Representatives Pilkington, Barker, Beck, Burch, Cozart, C. Douglas, C. Fite, Tucker, Vaught
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For An Act To Be Entitled

9 AN ACT CONCERNING THE ASSESSMENT OF AN ADDITIONAL
10 FINE FOR CRIMINAL OFFENSES COMMITTED AGAINST OR IN
11 THE PRESENCE OF A CHILD; CONCERNING THE ASSESSMENT OF
12 AN ADDITIONAL FINE FOR TRAFFIC VIOLATIONS COMMITTED
13 IN THE PRESENCE OF A CHILD; AND FOR OTHER PURPOSES.
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Subtitle

16 CONCERNING THE ASSESSMENT OF AN
17 ADDITIONAL FINE FOR CRIMINAL OFFENSES
18 COMMITTED AGAINST OR IN THE PRESENCE OF A
19 CHILD AND THE ASSESSMENT OF AN ADDITIONAL
20 FINE FOR TRAFFIC VIOLATIONS COMMITTED IN
21 THE PRESENCE OF A CHILD.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Arkansas Code § 5-4-701 is amended to read as follows:

28 As used in this subchapter:

29 (1) "Child" means a person under ~~sixteen (16)~~ eighteen (18) years of
30 age; and

31 (2) "In the presence of a child" means in the physical presence of a
32 child or knowing or having reason to know that a child is present and may see
33 or hear an act.
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35 SECTION 2. Arkansas Code § 5-4-703 is amended to read as follows:

36 5-4-703. Additional fine – Offense committed against a child or in the



1 presence of a child.

2 (a) In addition to any other sentence, the court shall assess an
3 additional fine of ~~twenty five dollars (\$25.00)~~ one hundred dollars (\$100)
4 for the following offenses if the finder of fact determines that the offense
5 was committed against a child or in the presence of a child:

6 (1) A felony involving violence as defined in § 5-4-501(d)(2);

7 (2) Manslaughter, § 5-10-104, or negligent homicide, § 5-10-105;

8 (3) False imprisonment in the first degree, § 5-11-103, or false
9 imprisonment in the second degree, § 5-11-104;

10 (4) Battery in the second degree, § 5-13-202, or battery in the
11 third degree, § 5-13-203;

12 (5) Aggravated assault, § 5-13-204, assault in the first degree,
13 § 5-13-205, assault in the second degree, § 5-13-206, assault in the third
14 degree, § 5-13-207, or coercion, § 5-13-208;

15 (6) Introduction of controlled substance into body of another
16 person, § 5-13-210;

17 (7) Terroristic threatening, § 5-13-301, or terroristic act, §
18 5-13-310;

19 (8) Sexual indecency with a child, § 5-14-110, indecent
20 exposure, § 5-14-112, sexual assault in the third degree, § 5-14-126, or
21 sexual assault in the fourth degree, § 5-14-127;

22 (9) Trafficking of persons, § 5-18-103, or patronizing a victim
23 of human trafficking, § 5-18-104;

24 (10) Domestic battering in the second degree, § 5-26-304,
25 domestic battering in the third degree, § 5-26-305, aggravated assault on a
26 family or household member, § 5-26-306, first degree assault on a family or
27 household member, § 5-26-307, second degree assault on a family or household
28 member, § 5-26-308, or third degree assault on a family or household member,
29 § 5-26-309;

30 (11) Endangering the welfare of a minor in the first degree, §
31 5-27-205, endangering the welfare of a minor in the second degree, § 5-27-
32 206, or endangering the welfare of a minor in the third degree, § 5-27-207;

33 (12) Engaging in sexually explicit conduct for use in visual or
34 print medium, § 5-27-303, pandering or possessing visual or print medium
35 depicting sexually explicit conduct involving a child, § 5-27-304,
36 transportation of minors for prohibited sexual conduct, § 5-27-305, Internet

1 stalking of a child, § 5-27-306, or sexually grooming a child, § 5-27-307;

2 (13) Employing or consenting to the use of a child in a sexual
 3 performance, § 5-27-402, or producing, directing, or promoting a sexual
 4 performance by a child, § 5-27-403;

5 (14) Distributing, possessing, or viewing of matter depicting
 6 sexually explicit conduct involving a child, § 5-27-602, computer child
 7 pornography, § 5-27-603, failure to report child pornography, § 5-27-604, or
 8 computer exploitation of a child, § 5-27-605;

9 (15) ~~A controlled substance offense in which an enhanced penalty~~
 10 ~~under § 5-64-406 or § 5-64-407 is applied~~ Fleeing, if under § 5-54-125(d);

11 (16) Aggravated cruelty to a dog, cat, or horse, § 5-62-104; ~~or~~

12 (17) A controlled substance offense in which an enhanced penalty
 13 under § 5-64-406 or § 5-64-407 is applied;

14 (18) Driving or boating while intoxicated, § 5-65-103; or

15 (19) Reckless driving, § 27-50-308.

16 (b)(1) A fine assessed and collected under this section shall be
 17 remitted on or before the fifteenth day of the following month to the
 18 Arkansas Children’s Advocacy Center Fund under § 19-5-1258.

19 (2) A form identifying the amount of fines assessed under this
 20 section shall be transmitted with the collected fines.

21
 22 SECTION 3. Arkansas Code § 16-10-205(e), concerning the use of e-
 23 citations by a law enforcement agency, is amended to read as follows:

24 (e) If an electronic citation is used:

25 (1) The electronic citation shall indicate whether or not there
 26 was a person under eighteen (18) years of age present at the time of the
 27 offense for which the electronic citation was issued;

28 ~~(1)(2)~~ (2) A printed copy of the electronic citation ~~must~~ shall be
 29 given to the violator;

30 ~~(2)(3)~~ (3) A copy of the electronic citation must be maintained by
 31 the issuing police department, marshal’s office, or county sheriff’s office;
 32 and

33 ~~(3)(A)(4)(A)~~ (4) A copy of the electronic citation ~~must~~ shall be
 34 forwarded to the court clerk in either electronic or written format, as
 35 designated by the court clerk, at least seven (7) business days before the
 36 court date.

1 (B) The court clerk's copy shall be forwarded to the
2 Office of Driver Services as provided in subdivision (d)(1)(C) of this
3 section.

4
5 SECTION 4. Arkansas Code Title 19, Chapter 5, Subchapter 12, is
6 amended to add an additional section to read as follows:

7 19-5-1258. Arkansas Children's Advocacy Center Fund.

8 (a) There is created on the books of the Treasurer of State, the
9 Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous
10 fund to be known as the "Arkansas Children's Advocacy Center Fund".

11 (b) The fund shall consist of:

12 (1) The fines specified under §§ 5-4-703, 27-50-306, and 27-51-
13 217;

14 (2) Grants or donations made by a person, state agency, or
15 federal government agency; and

16 (3) Any other funds authorized or provided by law.

17 (c) The fund shall be used by the Arkansas Child Abuse/Rape/Domestic
18 Violence Commission as provided in § 9-5-106 and as provided by any other
19 provisions of law.

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21 SECTION 5. DO NOT CODIFY. Temporary legislation.

22 All moneys to be credited to the Arkansas Children's Advocacy Center
23 Fund as provided by Acts 2015, No. 1220, and collected before the effective
24 date of this act shall be immediately transferred to the Arkansas Children's
25 Advocacy Center Fund upon the effective date of this act.

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27 SECTION 6. Arkansas Code § 27-50-306 is amended to read as follows:
28 27-50-306. Additional penalties on conviction of moving traffic
29 violations.

30 (a) In addition to the penalties provided by law, after the conviction
31 of any person for any moving traffic violation, the ~~trial judge or magistrate~~
32 sentencing court may in disposition and assessing penalty consider the
33 previous traffic conviction record and impose the following penalties, or
34 combination of penalties:

35 (1) Suspend the driver's license for any period not to exceed
36 one (1) year; ~~or~~

1 (2) Suspend the driver’s license for any period, not to exceed
2 one (1) year, but grant a conditional permit to drive during the suspension,
3 by imposing conditions and restrictions not to exceed one (1) year defining
4 circumstances under which the violator will be allowed to drive while under
5 suspension; ~~or~~

6 (3) Require the attendance of the violator at a driver’s
7 training school; ~~or~~

8 (4) Require the violator to retake the driver’s test, or furnish
9 proof of adequate sight or hearing necessary for driving, or produce proof of
10 physical or mental capacity and ability to drive; ~~or~~

11 (5) Require minors to write themes or essays on safe driving; or

12 (6) Place a minor under probationary conditions, as determined
13 by the court in its reasonable discretion, designed as a reasonable and
14 suitable preventative and educational safeguard to prevent future traffic
15 violations by the minor.

16 (b)(1) Unless the offense is otherwise addressed under § 5-4-703, in
17 addition to any other sentence, the sentencing court shall assess an
18 additional fine of five dollars (\$5.00) for reckless driving, § 27-50-308, or
19 for speeding in excess of twenty miles per hour (20 mph) over the posted
20 speed limit if the finder of fact determines that the traffic violation was
21 committed while a person under eighteen (18) years of age was a passenger in
22 the motor vehicle.

23 (2) A fine assessed and collected under this subsection shall be
24 remitted on or before the fifteenth day of the following month to the
25 Arkansas Children’s Advocacy Center Fund.

26
27 SECTION 7. Arkansas Code Title 27, Chapter 51, Subchapter 2, is
28 amended to add an additional section to read as follows:

29 27-51-217. Additional fine for moving violations committed in the
30 presence of a minor.

31 (a) In addition to any other sentence resulting from a plea of guilty
32 or nolo contendere or a finding of guilty to a traffic violation under this
33 subchapter, the sentencing court shall assess an additional fine of five
34 dollars (\$5.00) for reckless driving, § 27-50-308, or for speeding in excess
35 of twenty miles per hour (20 mph) over the posted speed limit if the finder
36 of fact determines that the traffic violation was committed while a person

1 under eighteen (18) years of age was a passenger in the motor vehicle.

2 (b) A fine assessed and collected under this subsection shall be
3 remitted on or before the fifteenth day of the following month to the
4 Arkansas Children's Advocacy Center Fund.

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