



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for HB1523 Sponsored by Representative Bentley

Subtitle TO BE KNOWN AS THE “ARKANSAS EQUAL JUSTICE UNDER THE LAW ACT OF 2021.”

Impact Summary¹ Minimal, affecting fewer than 10 offenders per year. While data is unavailable as to the likely number of sentences that would be enhanced under the proposed bill, the bill does not raise the statutory maximums. For these reasons, this proposed bill is projected to have a minimal impact on correctional resources.

Change from Current Law² Amends Arkansas Code Annotated § 5-4-401, Sentence, to increase the minimum authorized sentence if the finder of fact finds that a person who is eighteen (18) years of age or older committed a felony involving violence for the purpose of preventing a person from exercising a constitutional right. The below table sets out the difference in the standard authorized range of punishment for each felony class and the range under the proposed bill.

| Felony Class | Standard Range of Punishment | Range of Punishment if committed for the purpose of preventing a person from exercising a constitutional right. |
|--------------|------------------------------|-----------------------------------------------------------------------------------------------------------------|
| A | 6 to 30 years | 10 to 30 years |
| B | 5 to 20 years | 6 to 20 years |
| C | 3 to 10 years | 4 to 10 years |
| D | 0 to 6 years | 3 to 6 years |

The proposed bill also defines “constitutional right” and “felony involving violence.” Under the proposed bill and current law, “felony involving violence” means:

- Murder in the first degree, § 5-10-102
- Murder in the second degree, §5-10-103
- Kidnapping, § 5-11-102
- Aggravated robbery, § 5-12-103
- Rape, § 5-14-103
- Battery in the first degree, § 5-13-201
- Terroristic Act, § 5-13-310
- Sexual assault in the first degree, § 5-14-124
- Sexual assault in the second degree, § 5-14-125

¹ This impact assessment was prepared 4/6/2021 8:54 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 C | 3-10 years; up to \$10,000 | Class A | Up to 1 year; up to \$2,500 |
| Class A | 6-30 years; up to \$15,000 | Class D | 0-6 years; up to \$10,000 | Class B | Up to 90 days; up to \$1,000 |
| Class B | 5-20 years; up to \$15,000 | Unclassified | As specified in statute | Class C | Up to 30 days; up to \$500 |

Misdemeanors

- Domestic battering in the first degree, § 5-26-303
- Residential burglary, § 5-39-201 (a)
- Aggravated residential burglary, § 5-39-204,
- Unlawful discharge of a firearm from a vehicle, § 5-74-107
- Criminal use of a prohibited weapon, §5-73-104, involving an activity making a Class B felony
- Aggravated assault upon a law enforcement officer or an employee of a correctional facility, § 5-13-211, if a Class Y felony
- A felony attempt, solicitation, or conspiracy to commit: Capital Murder, Murder in the first degree, Murder in the second degree, Kidnapping, Aggravated robbery, Aggravated assault upon a law enforcement officer or an employee of a correctional facility (Class Y felony only), Rape, Battery in the first degree, Domestic battering in the first degree, Residential burglary, or Aggravated residential burglary.

Impact Information The proposed bill raises the minimum sentence a felony involving violence committed for the purpose of preventing a person from exercising a constitutional right. While there is no data available regarding the number of likely occurrences for the offenses covered by the proposed bill, the statutory maximum does not change, nor is there any prohibition on probation or suspended sentences for offenders sentenced pursuant to the proposed bill. For this reason, the proposed bill is projected to have a minimal impact on correctional resources.