



ARKANSAS SENTENCING COMMISSION

1302 Pike Avenue, Suite E • North Little Rock, AR 72114

Phone: (501) 682-5001 • Fax: (501) 682-5018

Impact Assessment for HB1914 Sponsored by Representative Flowers

Subtitle CONCERNING THE IMPOSITION OF THE DEATH PENALTY ON A DEFENDANT WITH A SERIOUS MENTAL ILLNESS.

Impact Summary¹ Cannot be determined. The proposed bill amends available punishments for capital offenses based on the mental health of the defendant. Available data does not indicate whether offenders convicted of capital murder had a serious mental illness at the time of the offense. For this reason, the projected impact cannot be determined.

Change from Current Law² Amends various provisions of Title 5 of the Arkansas Code Annotated to prohibit a death sentence for a person with a serious mental illness. Under the proposed bill, a person against whom the state seeks the death penalty may file a petition with the trial court alleging that the person has a serious mental illness. The proposed bill sets out the procedural requirements upon filing of a petition for evaluation under this section. If, after following the procedures set out in the proposed bill, the trial court determines that the person has a serious mental illness, the state may not seek a sentence of death but may seek a sentence of life imprisonment without parole.

The proposed bill defines “person has a serious mental illness” to mean a person who, at the time of an offense, had active symptoms of a serious mental illness that substantially impaired his or her capacity to appreciate the nature, consequences, or wrongfulness of his or her conduct, exercise rational judgment in relation to his or her conduct, or conform his or her conduct to the requirements of the law. The person must have been diagnosed with the serious mental illness before and after commission of the offense. The proposed bill also defines “serious mental illness” and provides that serious mental illness does not include a disorder manifested primarily by repeated criminal conduct or attributable solely to the acute effects of voluntary use of alcohol or other drugs.

Impact Information The proposed bill eliminates the option of a death sentence for a person who has a serious mental illness. This means that for capital offenses, the only remaining sentence option is life without parole. Without historical data on the mental health of offenders sentenced to death, there is not enough data on which to formulate an impact assessment. For this reason, the projected impact of the proposed bill cannot be determined.

The Administrative Office of the Courts reports that for the three (3) year period beginning on January 1, 2017 and ending on December 31, 2019, there were eighty-seven (87) convictions for A.C.A. § 5-10-101, Capital Murder, as currently written.

The Division of Correction (ADC) reports that the average daily cost of care for inmates sentenced to the ADC is \$64.18 per day. The average daily cost of care for those offenders sentenced to the Supermax unit, where death row inmates are housed, is slightly lower at \$63.14 per day. ADC has not calculated the cost to carry out an execution.

¹ This impact assessment was prepared 4/21/2021 10:08 AM by the staff of the Arkansas Sentencing Commission pursuant to A. C. A. § 16-90-802(d)(6) with data supplied by the 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 costs; and “major” = would require budgetary increases for ADC 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