



ARKANSAS SENTENCING COMMISSION

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

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

Impact Assessment for SB170 Sponsored by Senator Garner

Subtitle TO PROHIBIT THE UNLAWFUL DISSEMINATION OF PERSONALLY-IDENTIFYING INFORMATION CONCERNING A MINOR VIA A SOCIAL MEDIA PLATFORM.

Impact Summary¹ Cannot be determined. The proposed bill creates a new criminal offense for which the likely number of occurrences is unknown. For this reason, the projected impact of the proposed bill cannot be determined.

Change from Current Law² Creates A.C.A. § 5-27-610, Unlawful dissemination of personally-identifying information of a minor via social media platform, a Class C felony. Under the proposed bill, a person commits the offense of unlawful dissemination of personally-identifying information of a minor via a social media platform if: (1) the person knowingly disseminates the personally-identifying information of a minor with the purpose to intimidate, abuse, threaten, harass, or frighten the minor; and (2) the dissemination of the personally-identifying information causes the minor to be in reasonable fear of physical injury.

The proposed bill also defines “personally-identifying information” and “social media platform.”

Impact Information The proposed bill creates a new criminal offense for which the likely number of occurrences is unknown. For this reason, the projected impact of the proposed bill cannot be determined. The following data is for informational purposes only.

The Administrative Office of the Courts (AOC) reports that for the three (3) year period beginning January 1, 2017 and ending December 31, 2019, there were two (2) misdemeanor convictions for a violation of A.C.A. § 5-71-217, Cyberbullying, covering Class A and Class B misdemeanor occurrences. The AOC reports that for the same three (3) year period, there were 89 convictions covering all felony occurrences of A.C.A. § 5-27-306, Internet Stalking of a Child. [See attached for complete reprint of both code sections.]

It is important to note that misdemeanors are often disposed of in District Court, and that not all District courts report data to the AOC. For this reason, the number of Cyberbullying convictions may be higher than reported.

The Arkansas Division of Correction reports ten (10) inmates currently serving a term of incarceration for a violation of A.C.A. § 5-27-306, Internet Stalking of a Child. Nine (9) of these offenders are serving a sentence for which A.C.A. § 5-27-306, Internet Stalking of a Child, is the most serious offense. These numbers cover all felony occurrences of A.C.A. § 5-27-306, Internet Stalking of a Child.

¹ This impact assessment was prepared 2/2/2021 4:21 PM 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 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. § 5-71-217. Cyberbullying.

(a) As used in this section:

(1) “Communication” means the electronic communication of information of a person's choosing between or among points specified by the person without change in the form or content of the information as sent and received;

(2) “Electronic means” means any textual, visual, written, or oral communication of any kind made through the use of a computer online service, Internet service, telephone, or any other means of electronic communication, including without limitation to a local bulletin board service, an Internet chat room, electronic mail, a social networking site, or an online messaging service; and

(3) “School employee” means a person who is employed full time or part time at a school that serves students in any of the grades kindergarten through grade twelve (K-12), including without limitation a:

(A) Public school operated by a school district;

(B) Public school operated by a state agency or institution of higher education;

(C) Public charter school; or

(D) Private school.

(b) A person commits the offense of cyberbullying if:

(1) He or she transmits, sends, or posts a communication by electronic means with the purpose to frighten, coerce, intimidate, threaten, abuse, or harass another person; and

(2) The transmission was in furtherance of severe, repeated, or hostile behavior toward the other person.

(c) The offense of cyberbullying may be prosecuted in the county where the defendant was located when he or she transmitted, sent, or posted a communication by electronic means, in the county where the communication by electronic means was received by the person, or in the county where the person targeted by the electronic communications resides.

(d)

(1) Cyberbullying is a Class B misdemeanor.

(2) Cyberbullying is a Class A misdemeanor if the victim is a school employee.

History

[Acts 2011, No. 905, § 1](#); [2013, No. 1431, § 2](#); [2013, No. 1492, § 1](#); [2015, No. 1155, § 13](#).

A.C.A. § 5-27-306. Internet stalking of a child.

(a) A person commits the offense of internet stalking of a child if the person being twenty-one (21) years of age or older knowingly uses a computer online service, internet service, local internet bulletin board service, or any means of electronic communication to:

(1) Seduce, solicit, lure, or entice a child fifteen (15) years of age or younger in an effort to arrange a meeting with the child for the purpose of engaging in:

- (A)** Sexual intercourse;
- (B)** Sexually explicit conduct; or
- (C)** Deviate sexual activity;

(2) Seduce, solicit, lure, or entice an individual that the person believes to be fifteen (15) years of age or younger in an effort to arrange a meeting with the individual for the purpose of engaging in:

- (A)** Sexual intercourse;
- (B)** Sexually explicit conduct; or
- (C)** Deviate sexual activity;

(3) Compile, transmit, publish, reproduce, buy, sell, receive, exchange, or disseminate the name, telephone number, email address, residence address, picture, physical description, characteristics, or any other identifying information on a child fifteen (15) years of age or younger in furtherance of an effort to arrange a meeting with the child for the purpose of engaging in:

- (A)** Sexual intercourse;
- (B)** Sexually explicit conduct; or
- (C)** Deviate sexual activity;

(4) Compile, transmit, publish, reproduce, buy, sell, receive, exchange, or disseminate the name, telephone number, email address, residence address, picture, physical description, characteristics, or any other identifying information on an individual that the person believes to be fifteen (15) years of age or younger in furtherance of an effort to arrange a meeting with the individual for the purpose of engaging in:

- (A)** Sexual intercourse;
- (B)** Sexually explicit conduct; or
- (C)** Deviate sexual activity; or

(5) Arrange a meeting with another person who holds himself or herself out as the parent, guardian, family member, or other person of authority over a child fifteen (15) years of age or younger or an individual that the person believes to be fifteen (15) years of age or younger in order to seduce, solicit, lure, or entice the child fifteen (15) years of age or younger or an individual that the person believes to be fifteen (15) years of age or younger for the purpose of engaging in:

- (A)** Sexual intercourse;

(B) Sexually explicit conduct; or

(C) Deviate sexual activity.

(b) Internet stalking of a child is a:

(1) Class B felony if the person attempts to arrange a meeting with:

(A) A child fifteen (15) years of age or younger, even if a meeting with the child never takes place;

(B) An individual that the person believes to be fifteen (15) years of age or younger, even if a meeting with the individual never takes place; or

(C) A person who holds himself or herself out as the parent, guardian, family member, or other person of authority over a child fifteen (15) years of age or younger or an individual that the person believes to be fifteen (15) years of age or younger, even if a meeting with the person never takes place; or

(2) Class Y felony if the person arranges a meeting with a child fifteen (15) years of age or younger or an individual that the person believes to be fifteen (15) years of age or younger and an actual meeting with the child or the individual takes place, even if the person fails to engage the child or individual in:

(A) Sexual intercourse;

(B) Sexually explicit conduct; or

(C) Deviate sexual activity.

(c) This section does not apply to a person or entity providing an electronic communications service to the public that is used by another person to violate this section, unless the person or entity providing an electronic communications service to the public:

(1) Conspires with another person to violate this section; or

(2) Knowingly aids and abets a violation of this section.

History

[Acts 2005, No. 1776, § 1](#); [2007, No. 38, § 2](#); [2007, No. 827, §§ 36, 37](#); [2017, No. 371, § 1](#).