



# ARKANSAS SENTENCING COMMISSION

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## Impact Assessment for SB307 Sponsored by Senator Hendren

**Subtitle** CONCERNING THE PENALTIES FOR THE OFFENSE OF FLEEING IN A VEHICLE OR CONVEYANCE.

**Impact Summary**<sup>1</sup> Medium, requiring budgetary increases for ADC inmate costs.

**Change from Current Law**<sup>2</sup> Amends Arkansas Code Annotated § 5-54-125, Fleeing, to increase the penalties for fleeing in a vehicle or conveyance. Pursuant to A.C.A. § 5-54-125, if a person knows that his or her immediate arrest or detention is being attempted by a duly authorized law enforcement officer, it is the lawful duty of the person to refrain from fleeing, either on foot or by means of any vehicle or conveyance. Under current law, fleeing by means any of vehicle or conveyance is either a Class A misdemeanor, a Class D felony, or a Class C felony, depending on the circumstances of the offense. The proposed bill increases each of these penalties one level. [See attached for a complete reprint of A.C.A. § 5-54-125.]

Under current law, fleeing by means of any vehicle or conveyance is a Class C felony if serious physical injury to any person occurs as a direct result of the fleeing. Under the proposed bill, this conduct would be increased to Class B felony. Under current law, fleeing by means of any vehicle or conveyance is a Class D felony if, under circumstances manifesting extreme indifference to the value of human life a person purposely operates the vehicle or conveyance in such a manner that creates a substantial danger of death or serious physical injury to another person. Under the proposed bill, this conduct would be increased to a Class C felony. Under current law, fleeing by means of any vehicle or conveyance is a Class A misdemeanor if the elements of the felony provisions are not met. Under the proposed law, this conduct would be increased to a Class D felony.

**Impact Information** The proposed bill increases penalties for all occurrences of fleeing by means of any vehicle or conveyance. Due to the number of offenders who would be subject to increased penalties, the proposed bill is projected to have a medium impact, requiring budgetary increases for Arkansas Division of Correction (ADC) inmate costs.

The projected impact on the resources of ADC is shown in the following table. The impact represents the increase in the current baseline ADC population over the next ten-year period. Additional budgetary requirements are calculated using \$23,490 as the average annual cost of care per inmate. This impact is limited to the effect of this proposed bill, meaning the cost listed is that which is above and beyond projected baseline prison population growth. Further, this projected impact does not include any costs associated with building new prison beds.

<sup>1</sup> This impact assessment was prepared 2/23/2021 4:47 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

<sup>2</sup> 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

In order to determine the annual increase in population, an ADC admissions file was created containing those inmates who were admitted to prison in the calendar year ending December 31, 2019 and who were serving a sentence for A.C.A. § 5-54-125, Fleeing by any means of a vehicle or conveyance. The sentences of those offenders were then analyzed to determine their sentence and projected length of stay under current law. The length of stay under current law was subtracted from the proposed length of stay to determine the “increased length of stay” under the proposed bill. This was applied to the total number of offenders in the admissions file to determine the increase in inmate population. The following table details the results of this analysis.

<b>Year</b>	<b>Annual Increase in Population</b>	<b>Additional Annual Cost of Inmate Care</b>
2021	6	\$ 140,940
2022	35	\$ 822,150
2023	40	\$ 939,600
2024	46	\$ 1,080,540
2025	49	\$ 1,151,010
2026	47	\$ 1,104,030
2027	44	\$ 1,033,560
2028	57	\$ 1,338,930
2029	55	\$ 1,291,950
2030	58	\$ 1,362,420
2031	63	\$ 1,479,870
<b>10-year total:</b>		<b>\$ 11,745,000</b>

### **A.C.A. § 5-54-125. Fleeing**

- (a) If a person knows that his or her immediate arrest or detention is being attempted by a duly authorized law enforcement officer, it is the lawful duty of the person to refrain from fleeing, either on foot or by means of any vehicle or conveyance.
- (b) Fleeing is a separate offense and is not considered a lesser included offense or component offense with relation to other offenses which may occur simultaneously with the fleeing.
- (c) Fleeing on foot is considered a Class C misdemeanor, except under the following conditions:
- (1) If the defendant has been previously convicted of fleeing on foot anytime within the past one-year period, a subsequent fleeing on foot offense is a Class B misdemeanor;
  - (2) If property damage occurs as a direct result of the fleeing on foot, the fleeing on foot offense is a Class A misdemeanor; or
  - (3) If serious physical injury occurs to any person as a direct result of the fleeing on foot, the fleeing on foot offense is a Class D felony.
- (d)
- (1)
    - (A) Fleeing by means of any vehicle or conveyance is considered a Class A misdemeanor.
    - (B) A person convicted under subdivision (d)(1)(A) of this section shall serve a minimum of two (2) days in jail.
  - (2) Fleeing by means of any vehicle or conveyance is considered a Class D felony if, under circumstances manifesting extreme indifference to the value of human life, a person purposely operates the vehicle or conveyance in such a manner that creates a substantial danger of death or serious physical injury to another person.
  - (3) If serious physical injury to any person occurs as a direct result of fleeing by means of any vehicle or conveyance, the fleeing by means of any vehicle or conveyance offense is a Class C felony.
- (e) In addition to any other penalty, if the defendant is convicted of violating subsection (d) of this section, the court shall instruct the Office of Driver Services of the Department of Finance and Administration to suspend or revoke the defendant's driver's license for at least six (6) months but not more than one (1) year.

### **History**

Acts 1977, No. 196, §§ 1, 2; A.S.A. 1947, §§ 41-2822, 41-2823; Acts 1993, No. 1217, § 1; 1995, No. 410, § 1; 2009, No. 1304, § 1; 2017, No. 887, § 1.