



## ARKANSAS SENTENCING COMMISSION

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### Impact Assessment for HB1141 Sponsored by Representative Lundstrom

**Subtitle** TO DEFINE THE TERM “CONSENT” REGARDING SEXUAL OFFENSES WITHIN THE ARKANSAS CRIMINAL CODE.

**Impact Summary**<sup>1</sup> Cannot be determined. Available data does not indicate the likely number of new convictions under the proposed bill.

**Change from Current Law**<sup>2</sup> Amends Arkansas Code Annotated § 5-14-101, Definitions, to add additional subdivisions defining the term “Consent” and amend the definitions of “Forcible compulsion”. Under the proposed bill, the term “*Consent*” means a freely given, knowledgeable, and informed agreement by a person who is not physically helpless, mentally defective, mentally incapacitated, or under the legal age to consent. Under current law, the term “Forcible compulsion” is defined as physical force or a threat, express or implied, of death or physical injury to or kidnapping of any person. The proposed bill amends the definition of “Forcible compulsion”, an element of the criminal offense of A.C.A. § 5-14-103, Rape, to replace physical force and include *any bodily impact, restraint, confinement or threat of bodily impact, restraint, or confinement whether express or implied, and any other behavior that results in a sexual act against the will of the person upon whom the sexual act is committed*. The proposed bill also amends A.C.A. § 5-14-125, Sexual assault in the second degree, § 5-14-127, Sexual assault in the fourth degree, and § 5-26-202, Incest, to specify that the victim’s consent is not a defense to prosecution for these offenses. [New language indicated by *italics*].

**Impact Information** The proposed bill adds and amends definitions related to certain sex offenses and specifies that consent is not a defense to certain sex offenses. Available data does not indicate the number of instances in which there was forcible compulsion under the definition found in the proposed bill or the number of instances in which consent was used as a defense for Sexual assault or Incest. For this reason, the projected impact of the proposed bill on correctional resources cannot be determined. The following data is provided for informational purposes only.

<sup>1</sup> This impact assessment was prepared 3/8/2023 11:35 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.

<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