



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for HB1459 Sponsored by Representative Fite

Subtitle TO AMEND THE LAW CONCERNING HUMAN TRAFFICKING AND RELATED OFFENSES; AND TO AMEND THE LAW CONCERNING FINES FOR HUMAN TRAFFICKING.

Impact Summary¹ Cannot be determined. The proposed bill amends courses of conduct for which available data is not sufficiently specific to determine a projected impact.

Change from Current Law² Amends various provisions Arkansas Code Annotated concerning trafficking of persons and related offenses by adding language to some occurrences to include *when he or she knows or should know* as part of the courses of conduct by which a person commits some occurrences of A.C.A. § 5-18-103, Trafficking of persons, and the offense of A.C.A. § 5-18-104, Patronizing a victim of human trafficking. [New language is indicated by *italics*].

The proposed bill also amends fine provisions for various sections for Human Trafficking and prostitution offenses.

Impact Information The proposed bill amends the mental state for various provisions concerning Human Trafficking. Data on the number of likely new convictions under the proposed bill is unavailable. For this reason, the projected impact of the proposed bill on correctional resources cannot be determined. The following data is for informational purposes only.

The Administrative Office of the Courts (AOC) reports the following conviction data for the three (3) year period beginning on 1/1/2020 and ending on 12/31/2022, and the Division of Correction (ADC) reports the following incarceration data as of December 2, 2022:

A.C.A.	# of felony convictions	# offenders incarcerated	# offenders incarcerated for which this is the most serious offense
§ 5-18-103 (c)(1) Trafficking of persons, Class A felony	0	2	0
§ 5-18-103 (c)(2) Trafficking of persons, Class Y felony	4	8	6
§ 5-18-104 (b)(1) Patronizing a victim of human trafficking, Class B felony	0	0	0
§ 5-18-104 (b)(2) Patronizing a victim of human trafficking victim is minor, Class A felony	1	1	0

¹ This impact assessment was prepared 3/7/2023 2:02 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 § 5-18-103. Trafficking of persons.

(a) A person commits the offense of trafficking of persons if he or she knowingly:

(1) Recruits, harbors, transports, obtains, entices, solicits, isolates, provides, or maintains a person knowing that the person will be subjected to involuntary servitude;

(2) Benefits financially or benefits by receiving anything of value from participation in a venture under subdivision (a)(1) of this section;

(3) Subjects a person to involuntary servitude;

(4) Recruits, entices, solicits, isolates, harbors, transports, provides, maintains, or obtains a minor for commercial sexual activity;

(5) Sells or offers to sell travel services that he or she knows include an activity prohibited under subdivisions (a)(1)-(4) of this section;

(6) Recruits, entices, solicits, isolates, harbors, transports, provides, maintains, or obtains a pregnant woman for the purpose of causing the pregnant woman to place her unborn child for adoption by:

(A) The use of or threatened use of physical force;

(B) The physical restraint or threat of physical restraint of a person;

(C) Serious physical injury or threat of serious physical injury to a person;

(D) Abuse or threatened abuse of law or legal process;

(E) Any scheme, plan, or pattern that has a purpose to cause the pregnant woman to believe that, if the pregnant woman does not place the unborn child for adoption, a person would suffer serious physical injury or physical restraint; or

(F) Means of serious harm or threats of serious harm to a person; or

(7) Benefits financially or benefits by receiving anything of value from participating in an act described under subdivision (a)(6) of this section.

(b) It is not a defense to prosecution under subdivision (a)(4) of this section that the actor:

(1) Did not have knowledge of a victim's age; or

(2) Mistakenly believed a victim was not a minor.

(c)

(1) Trafficking of persons is a Class A felony.

(2) Trafficking of persons is a Class Y felony if a victim was a minor at the time of the offense.

(d) In addition to any other sentence authorized by this section, a person who violates this section by offering to pay, agreeing to pay, or paying a fee to engage in sexual activity upon conviction shall be ordered to pay a fine of two hundred fifty dollars (\$250) to be deposited into the Safe Harbor Fund for Sexually Exploited Children

A.C.A. § 5-18-104. Patronizing a victim of human trafficking.

(a) A person commits the offense of patronizing a victim of human trafficking if he or she knowingly engages in commercial sexual activity with another person knowing that the other person is a victim of human trafficking.

(b)

(1) Patronizing a victim of human trafficking is a Class B felony.

(2) Patronizing a victim of human trafficking is a Class A felony if the victim was a minor at the time of the offense