



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for SB337 Sponsored by Senator Caldwell

Subtitle TO AUTHORIZE A PENALTY FOR THREATENING A STATE EMPLOYEE IN THE COURSE OF HIS OR HER JOB DUTIES; AND TO AUTHORIZE A PENALTY FOR ALERTING AN INDIVIDUAL OR ENTITY OF A STATE INVESTIGATION.

Impact Summary¹ Cannot be determined.

Change from Current Law² Amends Arkansas Code Title 21, Chapter 1, Subchapter 1, to add an additional section, § 21-1-107, Penalties for certain actions by or against state employee. Under the proposed bill, penalties for certain actions by or against state employee occur (1) if an individual threatens physical injury or property damage to a state employee while the state employee is acting in the course of his or her job duties and knows, or should know, that the person is a state employee or (2) if for a purpose other than a legitimate investigatory need a state employee alerts an individual or entity to an investigation by a state agency of the individual or entity.

Under the proposed bill, the penalty for a first conviction for A.C.A. § 21-1-107 is an unclassified misdemeanor. Second and subsequent convictions for occurrences of A.C.A. § 21-1-107 are Class D felonies.

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 on provisions criminalizing similar conduct is provided for informational purposes only. The Administrative Office of the Courts (AOC) reports that for the three (3) year period beginning on 1/1/2020 and ending on 12/31/2022, there were 477 misdemeanor convictions of A.C.A. § 5-13-301(b), Terroristic threatening, second degree. [See attached for complete reproduction of A.C.A. § 5-13-301].

¹ This impact assessment was prepared 3/6/2023 7:34 AM 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. § 5-13-301. Terroristic threatening.

(a)

(1) A person commits the offense of terroristic threatening in the first degree if:

(A) With the purpose of terrorizing another person, the person threatens to cause death or serious physical injury or substantial property damage to another person; or

(B) With the purpose of terrorizing another person, the person threatens to cause physical injury or property damage to a teacher or other school employee acting in the line of duty.

(2) Terroristic threatening in the first degree is a Class D felony.

(b)

(1) A person commits the offense of terroristic threatening in the second degree if, with the purpose of terrorizing another person, the person threatens to cause physical injury or property damage to another person.

(2) Terroristic threatening in the second degree is a Class A misdemeanor.

(c)

(1)

(A) Upon pretrial release of the defendant, a judicial officer shall:

(i) Enter a no contact order in writing consistent with Rules 9.3 and 9.4 of the Arkansas Rules of Criminal Procedure; and

(ii) Give notice to the defendant of penalties contained in Rule 9.5 of the Arkansas Rules of Criminal Procedure.

(B) The no contact order under subdivision (c)(1)(A) of this section remains in effect during the pendency of any appeal of a conviction under this section.

(C) The judicial officer or prosecuting attorney shall provide a copy of the no contact order under subdivision (c)(1)(A) of this section to the victim and arresting agency without unnecessary delay.

(2) If the judicial officer has reason to believe that mental disease or defect of the defendant will or has become an issue in the cause, the judicial officer shall enter orders consistent with [§ 5-2-327](#) or [§ 5-2-328](#), or both.

History

Acts 1975, No. 280, § 1608; 1979, No. 753, § 1; A.S.A. 1947, § 41-1608; Acts 1993, No. 379, § 4; 1993, No. 388, § 4; 1993, No. 1189, § 3; 1995, No. 1302, § 2; 2017, No. 472, § 18.