



## ARKANSAS SENTENCING COMMISSION

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### Impact Assessment for SB495 Sponsored by Senator Gilmore

**Subtitle** TO CREATE THE PROTECT ARKANSAS ACT; TO AMEND ARKANSAS LAW CONCERNING SENTENCING AND PAROLE; TO AMEND ARKANSAS LAW CONCERNING CERTAIN CRIMINAL OFFENSES; AND TO CREATE THE LEGISLATIVE RECIDIVISM REDUCTION TASK FORCE.

**Impact Summary**<sup>1</sup> Cannot be determined. Due to the inclusion of multiple provisions both increasing and decreasing the projected necessary correctional resources of the state, the cumulative impact of the proposed bill cannot be determined.

**Change from Current Law**<sup>2</sup> The proposed bill amends various provisions in the Arkansas Code Annotated pertaining to criminal procedure, criminal offenses, release from confinement, and the duties and responsibilities of state agencies or entities related to criminal justice. For purposes of this impact assessment, only a brief summary of provisions impacting prison population will be provided.

The proposed bill replaces the current structure by which inmates are released from prison. Under current law, release is based on a combination of good time and statutory parole eligibility. Statutory parole eligibility is based on the offense for which the inmate was sentenced and the inmate's criminal history. This can range from being eligible for release after serving approximately one-sixth of his or her sentence to being required to serve the entire term of imprisonment imposed by the sentencing court.

Under the proposed bill, a defendant's release eligibility is determined based on maximum amount of earned release credits he or she is eligible to earn against his or her period of incarceration. Offenses defined as a felony ineligible to receive earned release credits are ineligible for release prior to serving the entire period of incarceration imposed by the sentencing court. Offenses defined as a restricted release felony can earn release credits of up to fifteen percent of the sentence imposed by the sentencing court unless the defendant has previously been convicted of a felony ineligible to receive earned release credits or a restricted release felony. All other felonies can earn release credits of up to either fifty percent or seventy-five percent depending on the seriousness level of the offense.

The proposed bill provides expanded eligibility for treatment-based community corrections centers, authorizes limited options for release of aged inmates, and expands intermediate sanctions for offenders on community supervision.

The proposed bill also amends penalties or conduct provisions for: (1) Manslaughter, § 5-10-104, (2) Negligent Homicide, § 5-10-105, (3) Indecent Exposure, § 5-14-112, (4) Sexual extortion, § 5-14-113, (5) Theft of property, § 5-36-103, (6) Aggravated residential burglary, § 5-39-204, (7) Furnishing, possessing, using, or delivering a prohibited article, § 5-54-119, (8) Promoting prostitution of a minor, § 5-70-104, and (9) Possession of firearms by certain persons, § 5-73-103.

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<sup>1</sup> This impact assessment was prepared 3/29/2023 6:15 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.

<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

**Impact Information** The proposed bill amends some provisions which, independently considered, would increase the demand on the correctional resources of the state and some which would decrease the demand on the correctional resources of the state. The projected impact of many of these provisions cannot be determined. For this reason, the overall projected impact of the proposed bill cannot be determined. However, assumptions based on the increased minimum serving percentages can be applied to historical data to project the impact from this portion of the bill.

The following projection was prepared with the help of JFA Associates, Denver, CO, using the Wizard Microsimulation Projection Model. This impact assessment is based on data from the prison population projection using ADC data from the calendar year ending December 31, 2021.

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 \$23,331 as the difference in annual cost of care per inmate. This impact is limited to the effect of the release eligibility provisions in the proposed bill, meaning that 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.

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, 2021. The sentences of those offenders were then analyzed to determine their projected length of stay under current release eligibility laws. The length of stay under existing law was subtracted from the proposed length of stay under the proposed bill to determine the “increased length of stay” under the proposed bill. The projected length of stay under the proposed bill is based on the proposed minimum serving percentage, as well as a reduction due to new offenses committed after expiration of sentence and the difference in sentences observed as minimum release percentages increase under historical legislation. This was applied to the total number of offenders in the admissions file to determine the increase in inmate population. Finally, the time that the selected group would spend in custody on a parole violation was considered and the impact was reduced to offset costs associated with this time. The following table details the results of this analysis.

<b>Year</b>	<b>Annual Increase in Population</b>	<b>Additional Annual Inmate Cost of Care</b>
2024	1	\$ 23,331
2025	66	\$ 1,539,846
2026	188	\$ 4,386,228
2027	350	\$ 8,165,850
2028	553	\$ 12,902,043
2029	852	\$ 19,878,012
2030	1,026	\$ 23,937,606
2031	1,194	\$ 27,857,214
2032	1,327	\$ 30,960,237
2033	1,465	\$ 34,179,915
<b>Total 10- year impact</b>		<b>\$ 163,830,282</b>