

State of Arkansas  
91st General Assembly  
Regular Session, 2017

# A Bill

SENATE BILL 702

By: Senators E. Williams, Maloch, Irvin, J. Dismang

By: Representatives Pilkington, Barker, Beck, Burch, Cozart, C. Douglas, C. Fite, Tucker, Vaught

## For An Act To Be Entitled

AN ACT CONCERNING THE ASSESSMENT OF AN ADDITIONAL FINE FOR CRIMINAL OFFENSES COMMITTED AGAINST OR IN THE PRESENCE OF A CHILD; CONCERNING THE ASSESSMENT OF AN ADDITIONAL FINE FOR TRAFFIC VIOLATIONS COMMITTED IN THE PRESENCE OF A CHILD; AND FOR OTHER PURPOSES.

## Subtitle

CONCERNING THE ASSESSMENT OF AN ADDITIONAL FINE FOR CRIMINAL OFFENSES COMMITTED AGAINST OR IN THE PRESENCE OF A CHILD AND THE ASSESSMENT OF AN ADDITIONAL FINE FOR TRAFFIC VIOLATIONS COMMITTED IN THE PRESENCE OF A CHILD.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-4-701 is amended to read as follows:

As used in this subchapter:

(1) "Child" means a person under ~~sixteen (16)~~ eighteen (18) years of age; and

(2) "In the presence of a child" means in the physical presence of a child or knowing or having reason to know that a child is present and may see or hear an act.

SECTION 2. Arkansas Code § 5-4-703 is amended to read as follows:

5-4-703. Additional fine – Offense committed against a child or in the



presence of a child.

(a) In addition to any other sentence, the court shall assess an additional fine of ~~twenty five dollars (\$25.00)~~ one hundred dollars (\$100) for the following offenses if the finder of fact determines that the offense was committed against a child or in the presence of a child:

- (1) A felony involving violence as defined in § 5-4-501(d)(2);
- (2) Manslaughter, § 5-10-104, or negligent homicide, § 5-10-105;
- (3) False imprisonment in the first degree, § 5-11-103, or false imprisonment in the second degree, § 5-11-104;
- (4) Battery in the second degree, § 5-13-202, or battery in the third degree, § 5-13-203;
- (5) Aggravated assault, § 5-13-204, assault in the first degree, § 5-13-205, assault in the second degree, § 5-13-206, assault in the third degree, § 5-13-207, or coercion, § 5-13-208;
- (6) Introduction of controlled substance into body of another person, § 5-13-210;
- (7) Terroristic threatening, § 5-13-301, or terroristic act, § 5-13-310;
- (8) Sexual indecency with a child, § 5-14-110, indecent exposure, § 5-14-112, sexual assault in the third degree, § 5-14-126, or sexual assault in the fourth degree, § 5-14-127;
- (9) Trafficking of persons, § 5-18-103, or patronizing a victim of human trafficking, § 5-18-104;
- (10) Domestic battering in the second degree, § 5-26-304, domestic battering in the third degree, § 5-26-305, aggravated assault on a family or household member, § 5-26-306, first degree assault on a family or household member, § 5-26-307, second degree assault on a family or household member, § 5-26-308, or third degree assault on a family or household member, § 5-26-309;
- (11) Endangering the welfare of a minor in the first degree, § 5-27-205, endangering the welfare of a minor in the second degree, § 5-27-206, or endangering the welfare of a minor in the third degree, § 5-27-207;
- (12) Engaging in sexually explicit conduct for use in visual or print medium, § 5-27-303, pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, § 5-27-304, transportation of minors for prohibited sexual conduct, § 5-27-305, Internet

stalking of a child, § 5-27-306, or sexually grooming a child, § 5-27-307;

(13) Employing or consenting to the use of a child in a sexual performance, § 5-27-402, or producing, directing, or promoting a sexual performance by a child, § 5-27-403;

(14) Distributing, possessing, or viewing of matter depicting sexually explicit conduct involving a child, § 5-27-602, computer child pornography, § 5-27-603, failure to report child pornography, § 5-27-604, or computer exploitation of a child, § 5-27-605;

(15) ~~A controlled substance offense in which an enhanced penalty under § 5-64-406 or § 5-64-407 is applied~~ Fleeing, if under § 5-54-125(d);

(16) Aggravated cruelty to a dog, cat, or horse, § 5-62-104; ~~or~~

(17) A controlled substance offense in which an enhanced penalty under § 5-64-406 or § 5-64-407 is applied;

(18) Driving or boating while intoxicated, § 5-65-103; or

(19) Reckless driving, § 27-50-308.

(b)(1) A fine assessed and collected under this section shall be remitted on or before the fifteenth day of the following month to the Arkansas Children's Advocacy Center Fund under § 19-5-1258.

(2) A form identifying the amount of fines assessed under this section shall be transmitted with the collected fines.

SECTION 3. Arkansas Code § 16-10-205(e), concerning the use of e-citations by a law enforcement agency, is amended to read as follows:

(e) If an electronic citation is used:

(1) The electronic citation shall indicate whether or not there was a person under eighteen (18) years of age present at the time of the offense for which the electronic citation was issued;

~~(1)~~(2) A printed copy of the electronic citation ~~must~~ shall be given to the violator;

~~(2)~~(3) A copy of the electronic citation must be maintained by the issuing police department, marshal's office, or county sheriff's office; and

~~(3)(A)~~(4)(A) A copy of the electronic citation ~~must~~ shall be forwarded to the court clerk in either electronic or written format, as designated by the court clerk, at least seven (7) business days before the court date.

(B) The court clerk's copy shall be forwarded to the Office of Driver Services as provided in subdivision (d)(1)(C) of this section.

SECTION 4. Arkansas Code Title 19, Chapter 5, Subchapter 12, is amended to add an additional section to read as follows:

19-5-1258. Arkansas Children's Advocacy Center Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous fund to be known as the "Arkansas Children's Advocacy Center Fund".

(b) The fund shall consist of:

(1) The fines specified under §§ 5-4-703, 27-50-306, and 27-51-217;

(2) Grants or donations made by a person, state agency, or federal government agency; and

(3) Any other funds authorized or provided by law.

(c) The fund shall be used by the Arkansas Child Abuse/Rape/Domestic Violence Commission as provided in § 9-5-106 and as provided by any other provisions of law.

SECTION 5. DO NOT CODIFY. Temporary legislation.

All moneys to be credited to the Arkansas Children's Advocacy Center Fund as provided by Acts 2015, No. 1220, and collected before the effective date of this act shall be immediately transferred to the Arkansas Children's Advocacy Center Fund upon the effective date of this act.

SECTION 6. Arkansas Code § 27-50-306 is amended to read as follows:

27-50-306. Additional penalties on conviction of moving traffic violations.

(a) In addition to the penalties provided by law, after the conviction of any person for any moving traffic violation, the ~~trial judge or magistrate~~ sentencing court may in disposition and assessing penalty consider the previous traffic conviction record and impose the following penalties, or combination of penalties:

(1) Suspend the driver's license for any period not to exceed one (1) year; ~~or~~

(2) Suspend the driver's license for any period, not to exceed one (1) year, but grant a conditional permit to drive during the suspension, by imposing conditions and restrictions not to exceed one (1) year defining circumstances under which the violator will be allowed to drive while under suspension; ~~or~~

(3) Require the attendance of the violator at a driver's training school; ~~or~~

(4) Require the violator to retake the driver's test, or furnish proof of adequate sight or hearing necessary for driving, or produce proof of physical or mental capacity and ability to drive; ~~or~~

(5) Require minors to write themes or essays on safe driving; or

(6) Place a minor under probationary conditions, as determined by the court in its reasonable discretion, designed as a reasonable and suitable preventative and educational safeguard to prevent future traffic violations by the minor.

(b)(1) Unless the offense is otherwise addressed under § 5-4-703, in addition to any other sentence, the sentencing court shall assess an additional fine of five dollars (\$5.00) for reckless driving, § 27-50-308, or for speeding in excess of twenty miles per hour (20 mph) over the posted speed limit if the finder of fact determines that the traffic violation was committed while a person under eighteen (18) years of age was a passenger in the motor vehicle.

(2) A fine assessed and collected under this subsection shall be remitted on or before the fifteenth day of the following month to the Arkansas Children's Advocacy Center Fund.

SECTION 7. Arkansas Code Title 27, Chapter 51, Subchapter 2, is amended to add an additional section to read as follows:

27-51-217. Additional fine for moving violations committed in the presence of a minor.

(a) In addition to any other sentence resulting from a plea of guilty or nolo contendere or a finding of guilty to a traffic violation under this subchapter, the sentencing court shall assess an additional fine of five dollars (\$5.00) for reckless driving, § 27-50-308, or for speeding in excess of twenty miles per hour (20 mph) over the posted speed limit if the finder of fact determines that the traffic violation was committed while a person

under eighteen (18) years of age was a passenger in the motor vehicle.

(b) A fine assessed and collected under this subsection shall be remitted on or before the fifteenth day of the following month to the Arkansas Children's Advocacy Center Fund.

**APPROVED: 03/28/2017**