



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for HB1740 Sponsored by Representative Lundstrum

Subtitle TO COMBAT SEX TRAFFICKING OF MINORS; AND TO PROTECT THE CHILDREN OF ARKANSAS FROM SEXUAL PREDATORS AND PEDOPHILES.

Impact Summary¹ Cannot be determined. The proposed bill creates new criminal offenses for which the likely number of occurrences is unknown. For this reason, the projected impact of the proposed bill cannot be determined.

Change from Current Law² Amends Title 5, Chapter 18 of the Arkansas Code to create two (2) new criminal offenses. The proposed bill creates A.C.A. § 5-18-106, Grooming a minor for future sex trafficking, a Class B felony. Under the proposed bill, a person commits the offense of Grooming a minor for future sex trafficking if the person knowingly grooms a minor with a purpose to make it more likely that the minor can be enticed or induced into a future sex act with a person. The proposed bill defines “grooms” to mean exposing a minor to sexually explicit language or to a visual or print medium depicting sexually explicit conduct with the purpose to gain the trust of the minor.

The proposed bill also creates A.C.A. § 5-18-107, Traveling for the purpose of an unlawful sex act with a minor, a Class B felony. Under the proposed bill a person commits the offense of traveling for the purpose of an unlawful sex act with a minor if the person is eighteen (18) years of age or older and knowingly travels to this state from another state or travels ninety (90) or more miles within this state for the purpose of engaging in an unlawful sex act with a minor or a person he or she believes is a minor.

Impact Information The proposed bill creates new criminal offenses 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 is provided for informational purposes only.

The proposed bill is codified in the same chapter of the Arkansas Criminal Code as the offense of Trafficking of persons, A.C.A. § 5-18-103. [See attached for a complete reproduction of A.C.A. § 5-18-103]. Some conduct covered by the proposed offense of Grooming a minor for future sex trafficking may be criminalized by provisions found in A.C.A. § 5-18-103 (a)(4), which is a Class Y felony if the victim is a minor. This provision prohibits recruiting, enticing, or soliciting a minor for commercial sexual activity. [See attached for a complete reprint of A.C.A. § 5-18-103.]

In addition, some conduct covered by the proposed offense of Grooming a minor for future sex trafficking may also be criminalized by provisions found in A.C.A. § 5-27-307, Sexually grooming a child, which is a Class D felony if the offender is twenty-one (21) years of age or older or a Class A misdemeanor if the offender is younger than twenty-one (21) years of age. [See attached for a complete reprint of A.C.A. § 5-27-307.]

¹ This impact assessment was prepared 3/29/2021 2:32 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

Finally, some conduct covered by the proposed offense of Traveling for purposes of an unlawful sex act with a minor may be criminalized by provisions found in A.C.A. § 5-27-306, Internet stalking of a child, which prohibits seducing, soliciting, luring, or enticing a child fifteen (15) years of age or younger, or an individual the person believes to be fifteen (15) years of age or younger, in an effort to arrange a meeting with the child with the purpose of engaging in sexual intercourse, sexually explicit conduct, or deviate sexual activity. Internet stalking of a child is a Class Y felony if the meeting actually takes place or a Class B felony if the meeting does not actually take place. [See attached for a complete reprint of A.C.A. § 5-27-306.]

The Administrative Office of the Courts reports that for the three (3) year period beginning on 1/1/2017 and ending on 12/31/2019, there were:

- Seven (7) convictions for a violation of A.C.A. § 5-18-103 (c)(2), Trafficking of Persons, victim is a minor, a Class Y felony;
- Eighty-nine (89) convictions for a violation of A.C.A. § 5-27-306, Internet stalking of a child, covering all courses of conduct and all felony classes;
- Eighteen (18) convictions for a violation of A.C.A. § 5-27-307 (c)(1), Sexually grooming a child, a Class D felony.

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 by the use of or threatened use of physical force to place the baby who is not yet born for adoption; 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.

History

Acts 2013, No. 132, § 3; 2013, No. 133, § 3; 2013, No. 1257, § 4; 2015, No. 1080, § 1; 2019, No. 1022, § 1.

A.C.A. § 5-27-306. Internet stalking of a child.

(a) A person commits the offense of internet stalking of a child if the person being twenty-one (21) years of age or older knowingly uses a computer online service, internet service, local internet bulletin board service, or any means of electronic communication to:

(1) Seduce, solicit, lure, or entice a child fifteen (15) years of age or younger in an effort to arrange a meeting with the child for the purpose of engaging in:

(A) Sexual intercourse;

(B) Sexually explicit conduct; or

(C) Deviate sexual activity;

(2) Seduce, solicit, lure, or entice an individual that the person believes to be fifteen (15) years of age or younger in an effort to arrange a meeting with the individual for the purpose of engaging in:

(A) Sexual intercourse;

(B) Sexually explicit conduct; or

(C) Deviate sexual activity;

(3) Compile, transmit, publish, reproduce, buy, sell, receive, exchange, or disseminate the name, telephone number, email address, residence address, picture, physical description, characteristics, or any other identifying information on a child fifteen (15) years of age or younger in furtherance of an effort to arrange a meeting with the child for the purpose of engaging in:

(A) Sexual intercourse;

(B) Sexually explicit conduct; or

(C) Deviate sexual activity;

(4) Compile, transmit, publish, reproduce, buy, sell, receive, exchange, or disseminate the name, telephone number, email address, residence address, picture, physical description, characteristics, or any other identifying information on an individual that the person believes to be fifteen (15) years of age or younger in furtherance of an effort to arrange a meeting with the individual for the purpose of engaging in:

(A) Sexual intercourse;

(B) Sexually explicit conduct; or

(C) Deviate sexual activity; or

(5) Arrange a meeting with another person who holds himself or herself out as the parent, guardian, family member, or other person of authority over a child fifteen (15) years of age or younger or an individual that the person believes to be fifteen (15) years of age or younger in order to seduce, solicit, lure, or entice the child fifteen (15) years of age or younger or an individual that the person believes to be fifteen (15) years of age or younger for the purpose of engaging in:

(A) Sexual intercourse;

(B) Sexually explicit conduct; or

(C) Deviate sexual activity.

(b) Internet stalking of a child is a:

(1) Class B felony if the person attempts to arrange a meeting with:

(A) A child fifteen (15) years of age or younger, even if a meeting with the child never takes place;

(B) An individual that the person believes to be fifteen (15) years of age or younger, even if a meeting with the individual never takes place; or

(C) A person who holds himself or herself out as the parent, guardian, family member, or other person of authority over a child fifteen (15) years of age or younger or an individual that the person believes to be fifteen (15) years of age or younger, even if a meeting with the person never takes place; or

(2) Class Y felony if the person arranges a meeting with a child fifteen (15) years of age or younger or an individual that the person believes to be fifteen (15) years of age or younger and an actual meeting with the child or the individual takes place, even if the person fails to engage the child or individual in:

(A) Sexual intercourse;

(B) Sexually explicit conduct; or

(C) Deviate sexual activity.

(c) This section does not apply to a person or entity providing an electronic communications service to the public that is used by another person to violate this section, unless the person or entity providing an electronic communications service to the public:

(1) Conspires with another person to violate this section; or

(2) Knowingly aids and abets a violation of this section.

History

Acts 2005, No. 1776, § 1; 2007, No. 38, § 2; 2007, No. 827, §§ 36, 37; 2017, No. 371, § 1.

A.C.A. § 5-27-307. Sexually grooming a child.

(a) As used in this section, “disseminates” means to allow to view, expose, furnish, present, sell, or otherwise distribute.

(b) A person commits sexually grooming a child if he or she knowingly disseminates to a child thirteen (13) years of age or younger with or without consideration a visual or print medium depicting sexually explicit conduct with the purpose to entice, induce, or groom the child thirteen (13) years of age or younger to engage in the following with a person:

(1) Sexual intercourse;

(2) Sexually explicit conduct; or

(3) Deviate sexual activity.

(c) Sexually grooming a child is a:

(1) Class D felony if the actor is twenty-one (21) years of age or older; or

(2) Class A misdemeanor if the actor is younger than twenty-one (21) years of age.

(d) It is an affirmative defense to prosecution under this section that the actor was not more than three (3) years older than the victim.

(e) It is not a defense to prosecution under this section that the actor does not know the age of the child or believes the child is fourteen (14) years of age or older.

History

Acts 2013, No. 1114, § 2.