

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H2/20/19
A Bill

HOUSE BILL 1280

By: Representative Gazaway

For An Act To Be Entitled

AN ACT CONCERNING THE OFFENSE OF PUBLIC INTOXICATION;
AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE OFFENSE OF PUBLIC
INTOXICATION.

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

SECTION 1. DO NOT CODIFY. Legislative intent.

(a) It is the intent of the General Assembly to increase the available penalty for repeat offenders of the offense of public intoxication, not to necessarily punish those persons who may have demonstrated a problem with or a dependency on alcohol, but to provide the judiciary with a longer time frame during which a sentencing court may sentence a person to probation or a diversionary program and during which the person may be ordered to seek treatment for an alcohol problem or alcohol dependency.

(b) The General Assembly further intends that this act not be used to unnecessarily fine or incarcerate a person with a demonstrated alcohol problem or alcohol dependency who is not committing any other criminal act when he or she commits the offense of public intoxication and that sentencing courts use discretion and consider alternative sanctions or available probationary or diversionary programs when sentencing repeat offenders under this act.

SECTION 2. Arkansas Code § 5-71-212 is amended to read as follows:

5-71-212. Public intoxication – Drinking in public.



(a) A person commits the offense of public intoxication if he or she appears in a public place manifestly under the influence of alcohol or a controlled substance to the degree and under circumstances such that:

(1) The person is likely to endanger himself or herself or another person or property; or

(2) The person unreasonably annoys a person in his or her vicinity.

(b)(1) Public intoxication is a Class C misdemeanor.

(2)(A) Public intoxication is an unclassified misdemeanor if the person has been convicted of public intoxication two (2) or more times within five (5) years of the date of the current offense.

(B) If convicted of the unclassified misdemeanor of public intoxication for a third or subsequent offense of public intoxication occurring within a five (5) year period, in addition to a fine of no more than five hundred dollars (\$500), the person may be sentenced to:

(i) Probation not to exceed one (1) year, with a condition that the defendant enroll in a program of treatment or counseling for alcohol abuse or alcohol dependency;

(ii) A term not to exceed thirty (30) days in a county jail, with an additional probationary period to include as a condition of probation that the defendant enroll in a program of treatment or counseling for alcohol abuse or alcohol dependency, with the total time of jail and probation not to exceed one (1) year; and

(iii) Provided that with regard to any revocation of probation under (b)(2)(i) or (ii), that any jail sentence imposed for revocation of probation not exceed thirty (30) days in the county jail.

(c) A person commits the offense of drinking in public if the person, other than in a place of business licensed to sell alcoholic beverages for consumption on the premises, consumes any alcoholic beverage:

(1) In any public place;

(2) On any highway or street;

(3) Upon any passenger coach, streetcar, or in or upon any vehicle commonly used for the transportation of passengers; or

(4) In or about any depot, platform, waiting station or room, or other public place.

(d) Drinking in public is a Class C misdemeanor.

(e) ~~The provisions of this~~ This section ~~shall not be construed to~~ does not prohibit or restrict the consumption of an alcoholic beverage when consumed as a part of a recognized religious ceremony or ritual.

/s/Gazaway