



## ARKANSAS SENTENCING COMMISSION

1302 Pike Avenue, Suite E • North Little Rock, AR 72114

Phone: (501) 682-5001 • Fax: (501) 682-5018

### **Impact Assessment for HB1529 Sponsored by Representative Meeks**

**Subtitle** TO CREATE THE CRIMINAL OFFENSE OF UNLAWFUL DISTRIBUTION OF DEEPPFAKE VISUAL MATERIAL

**Impact Summary**<sup>1</sup> Cannot be determined. The proposed bill creates a new felony criminal offense for which the likely number of occurrences is unknown.

**Change from Current Law**<sup>2</sup> Amends Title 5 of Arkansas Code Annotated (A.C.A.) by adding new section A.C.A. § 5-14-139, Unlawful distribution of deepfake visual material. Under the proposed bill, a violation of A.C.A. § 5-14-139 is a Class A misdemeanor for a first offense and a Class D felony for any subsequent offense and makes it unlawful to distribute deepfake visual material of a sexual nature of an identifiable person, without the consent of that person.

**Impact Information** The proposed bill creates a new felony offense, the likely number of occurrences of which cannot be determined. The proposed criminal offense contains some overlapping elements with A.C.A. § 5-27-609, Possession of sexually explicit digital material. [See attached for complete reproduction] However, current criminal offenses do not address deepfake digital material of a sexual nature. The following data is for informational purposes only.

The Administrative Office of the Courts (AOC) reports that for the three (3) year period beginning January 1, 2022 and ending December 31, 2024, there were zero (0) convictions for a violation of A.C.A. § 5-27-609, Possession of sexually explicit digital material. A violation of A.C.A. § 5-27-609 is a Class A misdemeanor. It is important to note that misdemeanors are often disposed of in District Court, and that not all district courts report data to the AOC. For this reason, the number of misdemeanor convictions is likely higher than reported.

The Division of Correction (ADC) reports that there are currently zero (0) offenders serving a sentence for A.C.A. § 5-27-609, Possession of sexually explicit digital material.

The likely number of occurrences with the creation of the proposed new felony offense is unknown. While there is an existing similar unlawful course of conduct, the proposed bill adds an additional element of deepfake visual material. For this reason, the potential impact on correctional resources cannot be determined.

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<sup>1</sup> This impact assessment was prepared 2/21/2025 10:12 AM by the staff of the Arkansas Sentencing Commission pursuant to A. C. A. § 16-90-802(d)(6) with data supplied by the 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 costs; and “major” = would require budgetary increases for ADC 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

## Document: A.C.A. § 5-27-609

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### A.C.A. § 5-27-609

**Copy Citation**

Current through all legislation of the 2024 Fiscal Session and the Second Extraordinary Session (2024)

[Arkansas Code Annotated PAW - ET Table of Contents](#)   [Title 5 Criminal Offenses](#)   [Subtitle 3. Offenses Involving Families, Dependents, Etc.](#)   [Chapter 27 Offenses Against Children or Incompetent Persons](#)   [Subchapter 6 – Computer Crimes Against Minors](#)

#### **5-27-609.** Possession of sexually explicit digital material.

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**(a)** As used in this section:

**(1)** "Nudity" means a:

**(A)** Showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering;

**(B)** Showing of the female breast with less than fully opaque covering of any portion of the female breast below the top of the nipple; or

**(C)** Depiction of covered male genitals in a discernibly turgid state; and

**(2)**

**(A)** "Sexually explicit digital material" means any photograph, digitized impact, or visual depiction of a minor:

**(i)** In any condition of nudity; or

**(ii)** Involved in any prohibited sexual act.

**(B)** The distribution of sexually explicit digital material by a minor may commonly be referred to as "sexting".

**(b)** A minor commits the offense of possession of sexually explicit digital material if the minor purposely creates, produces, distributes, presents, transmits, posts, exchanges, disseminates, or possesses through a computer, wireless communication device, or digital media, any sexually explicit digital material.

**(c)** It is an affirmative defense to the offense of possession of sexually explicit digital material that:

**(1)** A minor:

**(A)** Has not solicited the sexually explicit digital material;

**(B)** Does not subsequently distribute, present, transmit, post, print, disseminate, or exchange the sexually explicit digital material; and

**(C)** Deletes or destroys the sexually explicit digital material upon receipt; or

**(2)** A minor:

**(A)** Creates a photograph, digitized impact, or visual depiction of himself or herself; and

**(B)** Does not subsequently distribute, present, transmit, post, print, disseminate, or exchange the photograph, digitized impact, or visual depiction of himself or herself.

**(d)**

**(1)** Possession of sexually explicit digital material is a Class A misdemeanor.

**(2)** A minor who pleads guilty or nolo contendere to or is found guilty of violating this section for a first offense may be ordered to eight (8) hours of community service.

## History

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Acts 2013, No. 1086, § 4; 2015, No. 1155, § 7.

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