



## ARKANSAS SENTENCING COMMISSION

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### **Impact Assessment for HB1552** **Sponsored by Representative Gazaway**

**Subtitle** TO AMEND THE LAW CONCERNING CERTAIN INCHOATE OFFENSES RELATED TO FENTANYL

**Impact Summary**<sup>1</sup> Minimal. While the proposed bill changes the felony classification for certain inchoate offenses, there are currently only eight (8) offenders serving a sentence in the Division of Correction for the underlying conduct provisions.

**Change from Current Law**<sup>2</sup> Amends Title 5 of Arkansas Code Annotated (A.C.A.) to provide that inchoates for certain fentanyl offense are Class Y felonies. Under the proposed bill, attempt, solicitation, or conspiracy is a class Y felony for the offenses of aggravated death by delivery pursuant to A.C.A. § 5-10-202; predatory marketing of fentanyl to minors pursuant to A.C.A. § 5-64-421; and trafficking of fentanyl pursuant to A.C.A. § 5-64-440.

**Impact Information** The proposed bill changes the felony classification for certain inchoate fentanyl offenses.

The Administrative Office of the Courts 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. § 5-10-202, Aggravated death by delivery; zero (0) felony conviction for a violation of A.C.A. § 5-64-421, Predatory marketing of fentanyl to minors; and fifty-six (56) felony convictions for a violation of A.C.A. § 5-64-440(c)(2), Trafficking in fentanyl.

The following data displays the number of offenders serving a sentence for criminal attempt, criminal solicitation, criminal conspiracy and the total offense count for each affected offense:

<sup>1</sup> This impact assessment was prepared 3/3/2025 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 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

| <b>A.C.A. Code Section</b> | <b>Offense Description</b>                | <b>Criminal Attempt</b> | <b>Criminal Solicitation</b> | <b>Criminal Conspiracy</b> | <b>Total Offense Count</b> |
|----------------------------|---|-------------------------|------------------------------|----------------------------|----------------------------|
| 5-10-202                   | Aggravated Death by Delivery              | 0                       | 0                            | 0                          | 0                          |
| 5-64-421                   | Predatory Marketing of Fentanyl to Minors | 0                       | 0                            | 0                          | 0                          |
| 5-64-440                   | Trafficking Controlled Substance-Fentanyl | 0                       | 0                            | 0                          | 8                          |

While the impact of the change in felony classification cannot be determined with certainty, the lack of reported convictions and sentences makes it unlikely that the proposed bill will have anything more than a minimal impact on existing correctional resources.