



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for HB1563 **Sponsored by Representative Gazaway**

Subtitle TO ADD A FELONY OFFENSE THAT FALLS UNDER THE DEFINITION OF RESTRICTED RELEASE FELONY WITH RESPECT TO RELEASE ELIGIBILITY AND PROCEDURES FOR OFFENSES COMMITTED ON OR AFTER JANUARY 1, 2025

Impact Summary¹ Minimal, affecting fewer than ten (10) offenders per year.

Change from Current Law² Amends Title 16 of Arkansas Code Annotated (A.C.A.) by adding an additional subdivision to A.C.A. § 16-93-1802(2)(B), concerning felony offenses that fall under the definition of “restricted release felony” regarding release eligibility and procedures for offenses committed on or after January 1, 2025. Under the proposed bill, the offense of Knowingly exposing another person to fentanyl in the first degree, pursuant to A.C.A. § 5-13-214(b), is added to the existing list of offenses known as “restricted release felonies” for which an inmate is required to serve at least 85% of the period of incarceration imposed by the sentencing court prior to consideration for transfer to post-release supervision. Under current law, an inmate convicted of this offense has to serve at least 50% of the period of incarceration imposed by the sentencing court prior to consideration for transfer to post-release supervision. [See attached for complete reproduction]

Impact Information The proposed bill adds an existing felony criminal offense to the current list of restricted release felonies.

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 was one (1) conviction for a violation of A.C.A. § 5-13-214(b)(2), Exposing another person to fentanyl, 1st Degree.

The Division of Correction (ADC) reports that there are currently zero (0) offenders serving a sentence for which A.C.A. § 5-13-214(b), Exposing another person to fentanyl, 1st Degree is the most serious offense.

Due to the low number of affected offenders, the potential impact on correctional resources is projected to be minimal.

¹ This impact assessment was prepared 3/3/2025 1:21 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.

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

Document: A.C.A. § 16-93-1802

A.C.A. § 16-93-1802

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 16 Practice, Procedure, And Courts](#) [Subtitle 6. Criminal Procedure Generally](#) [Chapter 93 Probation and Parole](#) [Subchapter 18 — Release Eligibility and Procedures for Offenses Committed on or after January 1, 2025](#)

16-93-1802. Definitions.

As used in this subchapter:

(1)

(A) "Felony ineligible to receive earned release credits" means a felony offense for which a person is not eligible for release until one hundred percent (100%) of the sentence imposed by the sentencing court has been served.

(B) "Felony ineligible to receive earned release credits" includes only the following felony offenses, or an attempt, solicitation, or conspiracy to commit one (1) of the following felony offenses:

(i) Capital murder, § 5-10-101;

(ii) Murder in the first degree, § 5-10-102;

(iii) Aggravated death by delivery, § 5-10-202;

(iv) Kidnapping, § 5-11-102, if a Class Y felony;

(v) Aggravated robbery, § 5-12-103;

(vi) Rape, § 5-14-103;

(vii) Trafficking of persons, § 5-18-103;

(viii) Engaging children in sexually explicit conduct for use in visual or print medium, § 5-27-303;

(ix) Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, § 5-27-304;

(x) Transportation of minors for prohibited sexual conduct, § 5-27-305;

(xi) Internet stalking of a child, § 5-27-306;

- (xii) Sexually grooming a child, § 5-27-307, if a felony offense;
 - (xiii) Producing, directing, or promoting a sexual performance by a child, § 5-27-403;
 - (xiv) Computer exploitation of a child, § 5-27-605;
 - (xv) Causing a catastrophe, § 5-38-202(a);
 - (xvi) Aggravated residential burglary, § 5-39-204, if a Class Y felony;
 - (xvii) Treason, § 5-51-201;
 - (xviii) Fleeing, § 5-54-125, if a Class B felony;
 - (xix) Predatory marketing of fentanyl to minors, § 5-64-421(i); and
 - (xx) Possession of firearms by certain persons, § 5-73-103, if a Class B felony; and
- (2)**
- (A)** "Restricted release felony" means a felony offense for which a person is not eligible for release until at least eighty-five percent (85%) of the sentence imposed by the sentencing court has been served.
- (B)** "Restricted release felony" includes only the following felony offenses, or an attempt, solicitation, or conspiracy to commit one (1) of the following felony offenses:
- (i) Murder in the second degree, § 5-10-103;
 - (ii) Manslaughter, § 5-10-104;
 - (iii) Negligent homicide, § 5-10-105, if a Class B felony;
 - (iv) Encouraging the suicide of another person, § 5-10-107;
 - (v) Death by delivery in the first degree, § 5-10-203;
 - (vi) Death by delivery in the second degree, § 5-10-204;
 - (vii) Kidnapping, § 5-11-102, if a Class B felony;
 - (viii) Battery in the first degree, § 5-13-201;
 - (ix) Terroristic act, § 5-13-310;
 - (x) Sexual indecency with a child, § 5-14-110;
 - (xi) Sexual extortion, § 5-14-113;
 - (xii) Exposing another person to human immunodeficiency virus, § 5-14-123;
 - (xiii) Sexual assault in the first degree, § 5-14-124;
 - (xiv) Unlawful female genital mutilation of a minor, § 5-14-136;
 - (xv) Crime of video voyeurism, § 5-16-101, if a Class C felony offense;
 - (xvi) Voyeurism, § 5-16-102, if a Class C felony offense;
 - (xvii) Patronizing a victim of human trafficking, § 5-18-104;
 - (xviii) Grooming a minor for future sex trafficking, § 5-18-106;
 - (xix) Traveling for the purpose of an unlawful sex act with a minor, § 5-18-107;
 - (xx) Domestic battering in the first degree, § 5-26-303;
 - (xxi) Aggravated assault on a family or household member, § 5-26-306, if under § 5-26-306(a)(3);
 - (xxii) Permitting abuse of a minor, § 5-27-221, if a Class B felony;
 - (xxiii) Exposing a child to a chemical substance or methamphetamine, § 5-27-230;
 - (xxiv) Employing or consenting to the use of a child in a sexual performance, § 5-27-402;
 - (xxv) Arson, § 5-38-301, if a Class Y felony;

- (xxvi)** Aggravated residential burglary, § 5-39-204, if a Class A felony;
- (xxvii)** Advocating assassination or overthrow of government, § 5-51-202;
- (xxviii)** First degree escape, § 5-54-110;
- (xxix)** Soliciting material support for terrorism, § 5-54-202(a);
- (xxx)** Providing material support for a terrorist act, § 5-54-202(b);
- (xxxi)** Making a terrorist threat, § 5-54-203;
- (xxxii)** Falsely communicating a terrorist threat, 5-54-204;
- (xxxiii)** Terrorism, § 5-54-205;
- (xxxiv)** Hindering prosecution of terrorism, § 5-54-207;
- (xxxv)** Exposing the public to toxic biological, chemical, or radioactive substances, § 5-54-208;
- (xxxvi)** Use of a hoax substance or hoax bomb, § 5-54-209;
- (xxxvii)** Engaging in a continuing criminal enterprise, § 5-64-405;
- (xxxviii)** Delivery of fentanyl, § 5-64-421(c);
- (xxxix)** Manufacture of fentanyl, § 5-64-421(d);
- (xl)** Trafficking a controlled substance, § 5-64-440;
- (xli)** Driving or boating while intoxicated, sixth or subsequent offense, § 5-65-111(f);
- (xlii)** Promoting prostitution in the first degree, § 5-70-104, if a Class B felony;
- (xliii)** Arming rioters, § 5-71-204;
- (xliv)** Criminal use of prohibited weapons, § 5-73-104, if a Class B felony;
- (xlv)** Criminal possession of explosive material or a destructive device, § 5-73-108(a);
- (xlvi)** Criminal distribution of explosive material, § 5-73-108(b);
- (xlvii)** Possession of stolen explosive material, § 5-73-108(c);
- (xlviii)** Unlawful receipt or possession of an explosive material, § 5-73-108(d);
- (xlix)** Theft of any explosive material with the purpose to cause harm to a person or property, § 5-73-108(f);
- (l)** Possession or use of weapons by incarcerated persons, § 5-73-131;
- (li)** Possession or use of a machine gun in the course of a criminal offense, § 5-73-211;
- (lii)** Unlawful discharge of a firearm from a vehicle in the first degree, § 5-74-107(a);
- (liii)** Using a born-alive infant for scientific research or other kind of experimentation, § 20-16-604(i);
- (liv)** Partial-birth abortion, § 20-16-1203; and
- (lv)** Performing an abortion in violation of the Arkansas Unborn Child Protection from Dismemberment Abortion Act, § 20-16-1801 et seq.

History

Acts 2023, No. 659, § 2; 2023, No. 584, §§ 6, 7.

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