



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for HB1763 **Sponsored by Representative Underwood**

Subtitle TO CREATE THE OFFENSE OF UNLAWFUL USE OF A COMMUNICATION DEVICE DURING THE COMMISSION OF A HUMAN TRAFFICKING OFFENSE.

Impact Summary¹ Minimal. While the proposed bill creates a new felony criminal offense for which the likely number of occurrences is unknown, there only four (4) offenders serving a sentencing for A.C.A. § 5-64-404, Unlawful use of a communication device, as the most serious offense.

Change from Current Law² Amends Title 5 of Arkansas Code Annotated (A.C.A.) by adding a new section A.C.A. § 5-18-108, Unlawful use of a communication device during the commission of a human trafficking offense. Under the proposed bill, a violation of A.C.A. § 5-18-108 is a Class C felony. Under current law, a violation of A.C.A. § 5-64-404, Unlawful use of communication device, is a Class C felony that shares a similar course of conduct with the proposed new offense [See attached for complete reproduction]

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 similar elements with A.C.A. § 5-64-404, Unlawful use of communication device. 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 two-hundred fifty-three (253) felony convictions for a violation of A.C.A. § 5-64-404, Unlawful use of communication device.

The Division of Correction (ADC) reports that there are currently four (4) offenders serving a sentence for A.C.A. § 5-64-404, Unlawful use of a communication device, as 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 4/1/2025 9:09 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.

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. § 5-64-404

A.C.A. § 5-64-404

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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 6. Offenses Against Public Health, Safety, or Welfare](#) [Chapter 64 Controlled Substances](#) [Subchapter 4 – Uniform Controlled Substances Act – Prohibitions and Penalties](#)

5-64-404. Use of a communication device.

(a)

(1) As used in this section, "communication device" means any public or private instrumentality used or useful in the transmission of a writing, sign, signal, picture, or sound of any kind.

(2) "Communication device" includes mail, telephone, wire, radio, and any other means of communication.

(b) A person commits the offense of unlawful use of a communication device if he or she knowingly uses any communication device in committing or in causing or facilitating the commission of any act constituting a:

(1) Felony under this chapter; or

(2) Felony inchoate offense under § 5-3-101 et seq. or this chapter.

(c) Each separate use of a communication device is a separate offense under this section.

(d) Any person who violates this section upon conviction is guilty of a Class C felony.

History

Acts 1971, No. 590, Art. 4, § 4; A.S.A. 1947, § 82-2620; Acts 2005, No. 1994, § 305[A]; 2007, No. 827, § 61; 2011, No. 570, § 36

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