

# Estimating the impact of HB 5's proposed changes to AS 11.41.436(a) and AS 11.41.438

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# Alaska Justice Information Center

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We compile, analyze, and report on criminal justice topics to policymakers and practitioners to improve public safety, increase criminal justice system accountability, and reduce recidivism.

We specialize in quantitative data analysis, analysis of agency data, data visualization, integration of data, program evaluation, and statistical modeling.



# Background

- Alaska Criminal Justice Commission requested an analysis of the potential impact of HB 5 at its May 25, 2021 meeting
- AJiC provides technical assistance to the Commission and has access to data provided to the Commission under AS 44.19.645



# Limitations

- We have no data to estimate effects of criminalizing behavior that is currently lawful
- We have no data to estimate effects of changing the definition of consent
- Can only estimate *some* of the effects of proposed changes contained in Sections 3 and 4 of HB 5

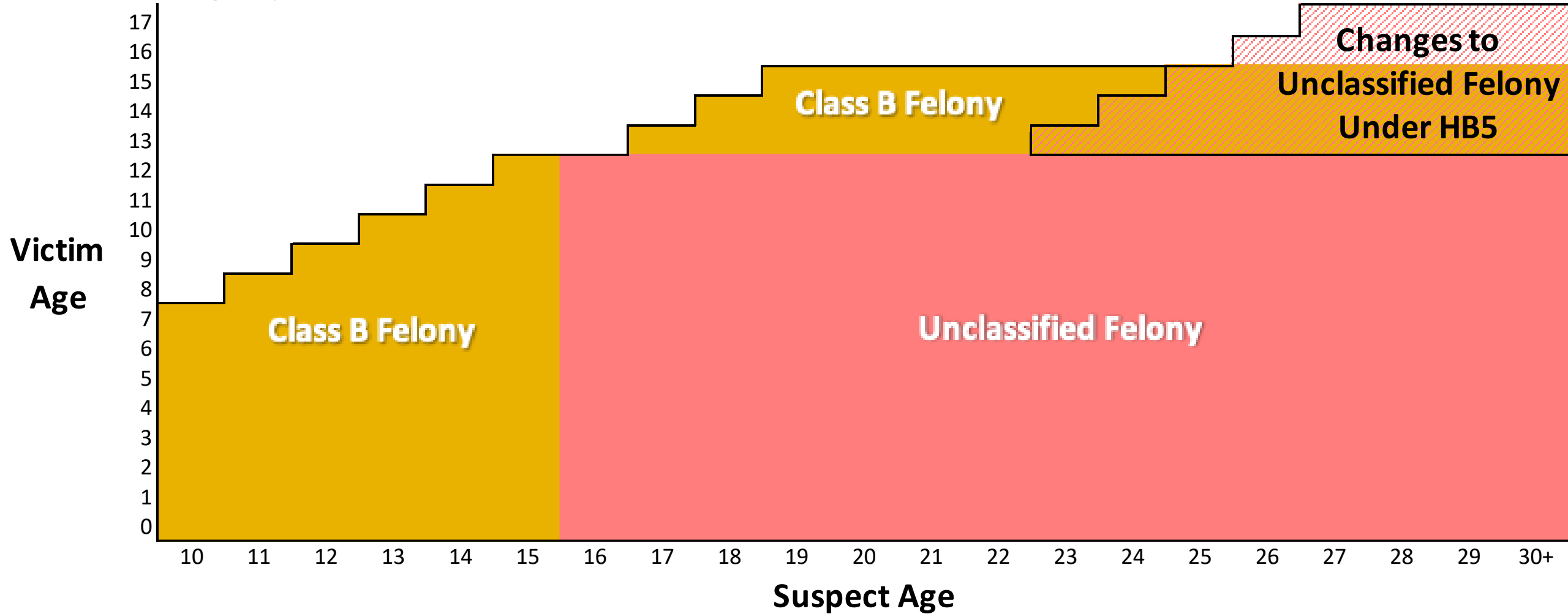


# Proposed changes to current law

## HB 5 § 3

- Increase the punishment for offenders who are 18 years of age or older and who are 10 years older than victims who are 13, 14, or 15 from a statutory minimum of 5 years (SAM 2, Class B Felony) to a minimum of 20 years (SAM 1, Unclassified Felony);
- Criminalize sexual penetration of 16- or 17-year-old victims by offenders who are older than 26 or 27 (respectively)

## Illegality of Consensual Sexual Penetration under HB5



AS11.41.436(a)(1); AS11.41.436(a)(7), Class B Felony

AS11.41.434(a)(1), Unclassified Felony

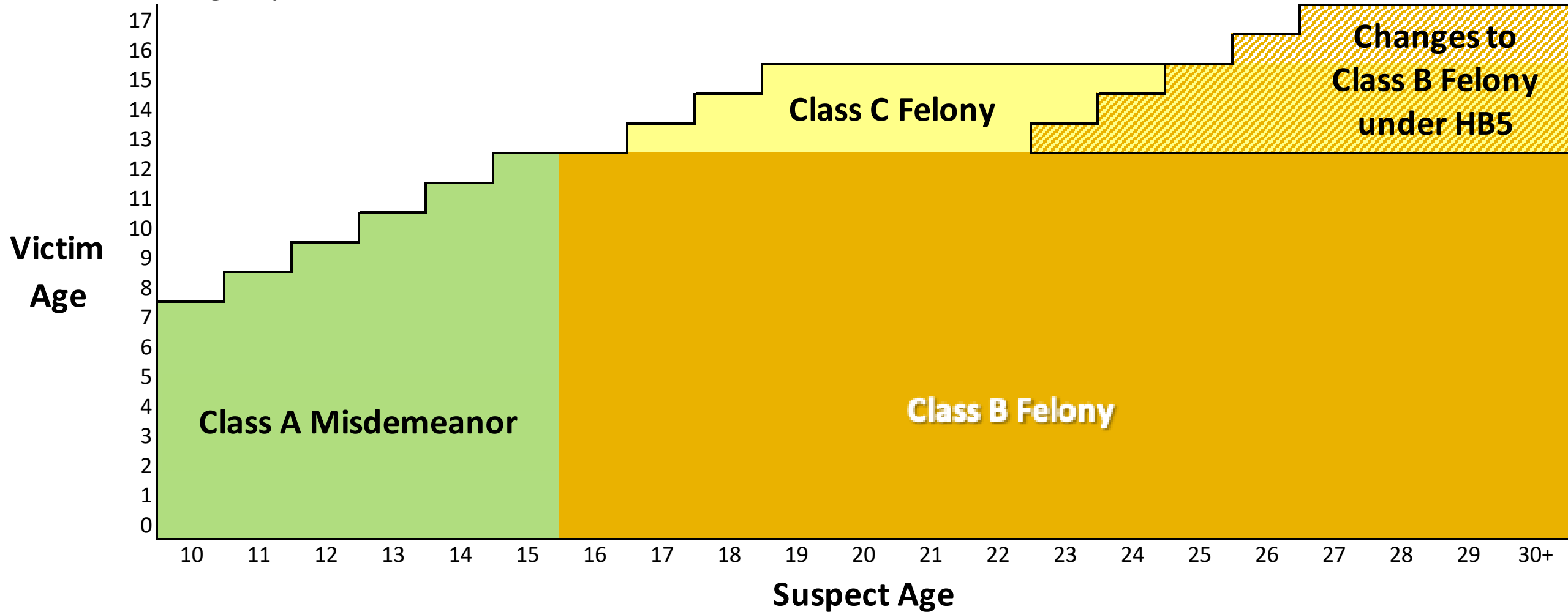


# Proposed changes to current law

## HB 5 § 4

- Increase the punishment for offenders who are 18 years of age or older and who are 10 years older than victims who are 13, 14, or 15 from a statutory minimum of 2 years (SAM 3, Class C Felony) to a statutory minimum of 5 years (SAM 2, Class B Felony);
- Criminalize sexual contact of 16- or 17-year-old victims by offenders who are older than 26 or 27 (respectively).

## Illegality of Consensual Sexual **Contact** Under HB5



- AS11.41.440(a), Class A Misdemeanor
- AS11.41.438(a), Class C Felony
- AS11.41.436(a)(2), Class B Felony



# Estimating the possible impacts of HB 5

- Criminal case disposition data provided by DPS pursuant to AS 44.19.645
- Charge-level data aggregated to cases
- Estimates are calculated as if all defendants served all terms within a case consecutively in cases with multiple convictions

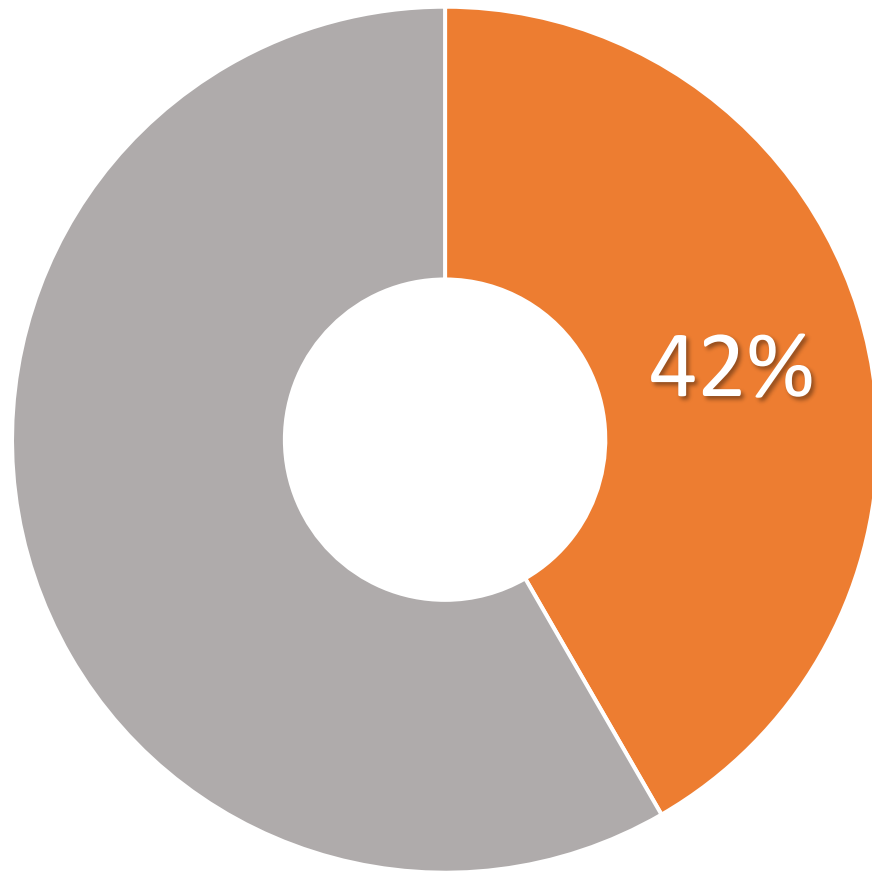


# Estimating the possible impacts of HB 5

- We can only estimate the ordered sentence — estimates of good time were not available
- Estimates assume that the *only* change in criminal processing would have been the sentence length — we assume no changes in decisions of victims, police, prosecutors, and the Court
- Victim data not available



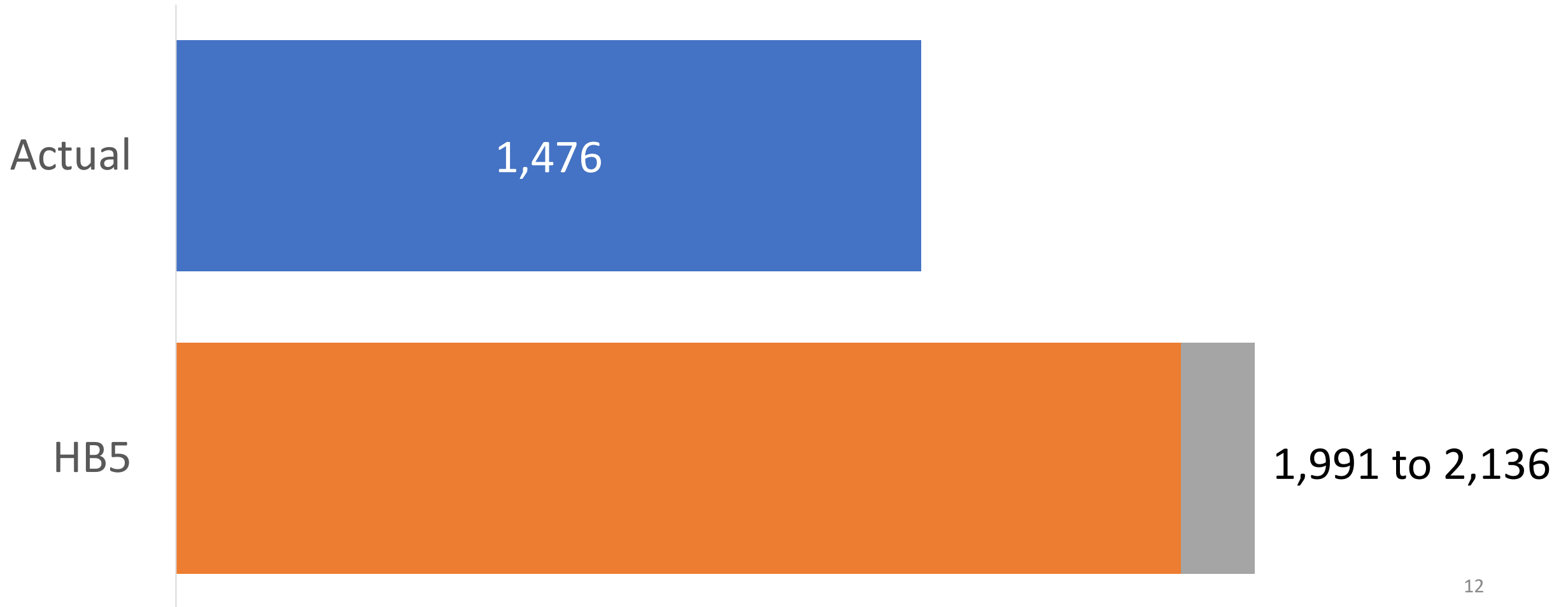
# Cases that would have been impacted by HB 5, 2015-2019



396 SAM 1, 2, or 3 cases

165 cases would have been impacted by HB 5 § 3 or § 4

# Active sentenced time in years, 2015-2019 actual sentences compared to HB5 minimum





# Summary of impacts

20-40 cases per year

100 additional years of active time sentenced  
per calendar year...

... plus additional impacts of criminalizing  
behavior that is not unlawful today that we  
cannot estimate