

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: H3/14/03 H3/26/03 S4/7/03

A Bill

HOUSE BILL 2614

5 By: Representatives Norton, Dickinson, Lamoureux, Matayo, Rosenbaum, Hutchinson, Parks
6
7

For An Act To Be Entitled

9 THE ARKANSAS ANTI-TERRORISM ACT OF 2003.
10

Subtitle

12 THE ARKANSAS ANTI-TERRORISM ACT OF 2003.
13
14

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
16

17 *SECTION 1. Arkansas Code § 5-38-101(5), concerning the definition of*
18 *catastrophe, is amended to read as follows:*

19 *(5) "Catastrophe" means serious physical injury or death to ~~ten (10)~~*
20 *five (5) or more persons or substantial damage to ~~ten (10)~~ five (5) or more*
21 *occupiable structures, or property loss in excess of one-half million dollars*
22 *(\$500,000).*
23

24 *SECTION 2. Arkansas Code § 5-38-202 is amended to read as follows:*

25 *5-38-202. Causing a catastrophe - Threatening to cause a catastrophe.*

26 *(a)(1) A person commits the offense of causing a catastrophe if he or*
27 *she ~~purposefully~~ knowingly causes a catastrophe by explosion, fire, flood,*
28 *avalanche, collapse of building, distribution of poison, radioactive*
29 *material, bacteria, virus, or other dangerous and difficult to confine force*
30 *or substance.*

31 *(2) Causing a catastrophe is a Class Y felony.*

32 *(b)(1) A person commits the offense of threatening to cause a*
33 *catastrophe if he or she contacts any person, company, corporation, or*
34 *governmental entity and threatens to cause a catastrophe by explosion, fire,*
35 *flood, avalanche, collapse of building, release of poison, radioactive*
36 *material, bacteria, virus, or other dangerous and difficult to confine force*



1 or substance unless paid a sum of money, any type of property, or unless the
2 person, company, corporation, or governmental entity performs a requested
3 act.

4 (2) Threatening to cause a catastrophe is a Class D felony.

5 (c) The court may order, in addition to any other restitution ordered
6 under § 5-4-205, that a person who violates this section make restitution to
7 the state or any of its political subdivisions for any cleanup costs
8 associated with the commission of the offense.

9
10 SECTION 3. Arkansas Code Title 5, Chapter 54 is amended to add an
11 additional subchapter to read as follows:

12 Subchapter 2 - Terrorism

13 5-54-201. Definitions.

14 For purposes of this subchapter:

15 (1) "Act of terrorism" means:

16 (A) Any act that causes or creates a risk of death or serious
17 physical injury to five (5) or more persons;

18 (B) Any act that disables or destroys the usefulness or
19 operation of any communications system;

20 (C) Any act or any series of two (2) or more acts committed in
21 furtherance of a single intention, scheme, or design that disables or
22 destroys the usefulness or operation of a computer network, computers,
23 computer programs, or data used by any industry, by any class of business, or
24 by five (5) or more businesses or by the federal government, state
25 government, any unit of local government, a public utility, a manufacturer of
26 pharmaceuticals, a national defense contractor, or a manufacturer of chemical
27 or biological products used in connection with agricultural production;

28 (D) Any act that disables or causes substantial damage to or
29 destruction of any structure or facility used in or in connection with
30 ground, air, or water transportation, the production or distribution of
31 electricity, gas, oil, or other fuel, the treatment of sewage or the
32 treatment or distribution of water, or controlling the flow of any body of
33 water;

34 (E) Any act that causes substantial damage to or destruction of
35 livestock or crops or a series of two (2) or more acts committed in
36 furtherance of a single intention, scheme, or design which, in the aggregate,

1 causes substantial damage to or destruction of livestock or crops;

2 (F) Any act that causes substantial damage to or destruction of
3 any hospital, or any building or facility used by the federal government,
4 state government, any unit of local government, by a national defense
5 contractor, a public utility, a manufacturer of chemical or biological
6 products used in or in connection with agricultural production or the storage
7 or processing of agricultural products or the preparation of agricultural
8 products for food or food products intended for resale or for feed for
9 livestock; or

10 (G) Any act that causes five hundred thousand dollars (\$500,000)
11 damage to any building or set of buildings;

12 (2) "Agricultural products" means crops and livestock;

13 (3) "Agricultural production" means the breeding and growing of
14 livestock and crops;

15 (4) "Biological products used in agriculture" means, but is not
16 limited to, seeds, plants, and DNA of plants or animals altered for use in
17 crop or livestock breeding or production or which are sold, intended,
18 designed, or produced for use in crop production;

19 (5) "Communications system" means any works, property, or material of
20 any radio, telegraph, telephone, microwave, cable station, or system;

21 (6)(A) "Computer" means a device that accepts, processes, stores,
22 retrieves, or outputs data.

23 (B) "Computer" includes, but is not limited to, auxiliary
24 storage and telecommunications devices;

25 (7) "Computer network" means a set of related, remotely connected
26 devices and any communications facilities including more than one (1)
27 computer with the capability to transmit data among them through
28 communication facilities;

29 (8) "Computer program" means a series of coded instruction or
30 statements in a form acceptable to a computer that causes the computer to
31 process data and supply the results of data processing;

32 (9)(A) "Data" means representations of information, knowledge, facts,
33 concepts, or instructions, including program documentation, which are
34 prepared in a formalized manner and are stored or processed in or transmitted
35 by a computer.

36 (B) Data may be stored in any form including, but not limited

1 to, magnetic or optical storage media, punch cards, or data stored internally
2 in the memory of a computer;

3 (10) "Hoax substance" means any substance that would cause a
4 reasonable person to believe that it is a dangerous chemical or biological
5 agent, a poison, a harmful radioactive substance, or similar substance;

6 (11) "Livestock" means animals bred or raised for human
7 consumption;

8 (12) "Material support or resources" means currency or other
9 financial securities, financial services, lodging, training, safe house,
10 false documentation or identification, communications equipment, facilities,
11 weapons, lethal substances, explosives, personnel, transportation, any other
12 kind of physical assets or intangible property, and expert services or expert
13 assistance;

14 (13)(A) "Person" means an individual, public or private corporation,
15 government, partnership, or unincorporated association.

16 (B) "Person" includes, without limitation, any charitable
17 organization, whether incorporated or unincorporated, any professional fund
18 raiser, professional solicitor, limited liability company, association, joint
19 stock company, association, trust, trustee, or any group people formally or
20 informally affiliated or associated for a common purpose, and any officer,
21 director, partner, member, or agent of any person;

22 (14) "Render criminal assistance" means to do any of the following
23 with the purpose to prevent, hinder, or delay the discovery or apprehension
24 of, a person who he or she knows or believes has committed an offense under
25 this subchapter or is being sought by law enforcement officials for the
26 commission of an offense under this subchapter, or with the purpose to assist
27 a person in profiting or benefiting from the commission of an offense under
28 this subchapter:

29 (A) Harbor or conceal the person;

30 (B) Warn the person of impending discovery or apprehension;

31 (C) Provide the person with money, transportation, a weapon, a
32 disguise, false identification documents, or any other means of avoiding
33 discovery or apprehension;

34 (D) Prevent or obstruct, by means of force, intimidation, or
35 deception, anyone from performing an act that might aid in the discovery or
36 apprehension of the person;

1 (E) Suppress, by any act of concealment, alteration, or
2 destruction, any physical evidence that might aid in the discovery or
3 apprehension of the person or in the lodging of a criminal charge against the
4 person;

5 (F) Aid the person to protect or expeditiously profit from an
6 advantage derived from the crime; or

7 (G) Provide expert services or expert assistance to the person.
8 Providing expert services or expert assistance shall not be construed to
9 apply to:

10 (i) A licensed attorney who discusses with a client the
11 legal consequences of a proposed course of conduct or advises a client of
12 legal or constitutional rights; and

13 (ii) Licensed medical personnel who provides emergency
14 medical treatment to a person whom the doctor believes committed an offense
15 under this subchapter if, as soon as reasonably practicable either before or
16 after providing the treatment, the doctor notifies a law enforcement agency;
17 and

18 (15) "Terrorist" means any person who engages in or is about to engage
19 in a terrorist act with the purpose to intimidate or coerce a significant
20 portion of the civilian population or influence the policy of a government or
21 a unit of government.

22
23 5-54-202. Soliciting material support for terrorism – Providing
24 material support for a terrorist act.

25 (a)(1)(A) A person commits the offense of soliciting material support
26 for terrorism if the person knowingly raises, solicits, or collects material
27 support or resources knowing that the material support or resources will be
28 used, in whole or in part, to plan, prepare, carry out, or avoid apprehension
29 for committing terrorism or causing a catastrophe, as defined under § 5-38-
30 202, or who knows that the material support or resources so raised,
31 solicited, or collected will be used by an organization designated under § 8
32 U.S.C. 1189, as the list of organizations existed March 1, 2003, and which
33 designates foreign terrorist organizations.

34 (B) It is not an element of the offense that the defendant
35 knows that an organization has been designated under § 8 U.S.C. 1189, as it
36 existed March 1, 2003.

1 (2) Soliciting material support for terrorism is a Class Y
2 felony.

3 (b)(1) A person commits the offense of providing material support for
4 a terrorist act if the person knowingly provides material support or
5 resources to a person knowing that the person will use that support or those
6 resources in whole or in part to plan, prepare, carry out, facilitate, or to
7 avoid apprehension for committing an act of terrorism or to cause a
8 catastrophe, as defined under § 5-38-202.

9 (2) Providing material support for a terrorist act is a Class Y
10 felony.

11
12 5-54-203. Making a terrorist threat.

13 (a) A person commits the offense of making a terrorist threat when,
14 with the purpose to intimidate or coerce a civilian population, influence the
15 policy of a government or a unit of government by intimidation or coercion,
16 the person in any manner knowingly threatens to commit or causes to be
17 committed a terrorist act and thereby causes a reasonable expectation or fear
18 of the imminent commission of a terrorist act or of another terrorist act.

19 (b) It is not a defense to a prosecution under this section that at
20 the time the person made the terrorist threat, unknown to him or her, it was
21 impossible to carry out the threat, nor is it a defense that the threat was
22 not made to a person who was a subject or intended victim of the threatened
23 act.

24 (c) Making a terrorist threat is a Class A felony.

25
26 5-54-204. Falsely making a terrorist threat.

27 (a) A person commits the offense of falsely communicating a terrorist
28 threat when, in any manner, the person knowingly makes a threat to commit or
29 cause to be committed a terrorist act or otherwise creates the impression or
30 belief that a terrorist act is about to be or has been committed, or, in any
31 manner, knowingly makes a threat to commit or cause to be committed a
32 catastrophe, as defined under § 5-38-202, which the person knows is false.

33 (b) Falsely communicating a terrorist threat is a Class B felony.

34
35 5-54-205. Terrorism.

36 (a) A person commits the offense of terrorism when, with the intent to

1 intimidate or coerce a civilian population, influence the policy of a unit of
2 government using intimidation or coercion, affect the conduct of a unit or
3 level of government by intimidation or coercion, or retaliate against a
4 civilian population or unit of government for a policy or conduct the person:

5 (1) Knowingly commits an act of terrorism within this state; or

6 (2) While outside this state, knowingly commits an act of
7 terrorism that takes effect within this state or produces substantial
8 detrimental effects within this state.

9 (b) Terrorism is a Class Y felony.

10
11 5-54-206. Terrorism - - Enhanced penalties.

12 (a) Any person who is found guilty of or who pleads guilty or nolo
13 contendere to terrorism, § 5-54-205, may be subject to an enhanced sentence
14 of an additional term of imprisonment of ten (10) years if the person's acts
15 caused serious physical injury to a law enforcement officer, fire fighter, or
16 emergency service technician providing emergency assistance at the scene of
17 the act of terrorism.

18 (b) The enhanced portion of the sentence shall be consecutive to any
19 other sentence imposed.

20 (c) Any person sentenced under this section shall not be eligible for
21 early release on parole for the enhanced portion of the sentence.

22
23 5-54-207. Hindering prosecution of terrorism.

24 (a) A person commits the offense of hindering prosecution of terrorism
25 when the person renders criminal assistance to a person who has committed
26 terrorism, as defined in Arkansas Code § 5-54-205, or causing a catastrophe,
27 as defined in § 5-38-202, when he or she knows that the person to whom he or
28 she rendered criminal assistance engaged in an act of terrorism or caused a
29 catastrophe.

30 (b) Hindering prosecution of terrorism is a Class B felony, provided
31 that if the defendant shows by a preponderance of the evidence that he or she
32 stands to the person assisted in the relation of parent, child, brother,
33 sister, corresponding step relationships of the preceding, or husband and
34 wife, hindering is a Class D felony.

35
36 5-54-208. Exposing the public to toxic biological, chemical, or

1 radioactive substances.

2 (a) A person commits the offense of exposing the public to toxic
3 biological, chemical, or radioactive substances when the person knowingly
4 delivers or causes the delivery of a biological, chemical, or radioactive
5 substance to a governmental facility, school, business, hospital, office
6 building, or similar facility open to the public, with the purpose of causing
7 bodily injury or evacuation of the facility.

8 (b) Exposing the public to toxic biological, chemical, or radioactive
9 substances is a Class Y felony.

10
11 5-54-209. Use of a hoax substance.

12 (a) A person commits the offense of use of a hoax substance when the
13 person knowingly delivers or causes the delivery of a hoax substance to a
14 governmental facility, school, business, hospital, office building, or
15 similar facility open to the public, or to a person's home, business, or
16 place of work with the purpose of causing anxiety, unrest, fear or personal
17 discomfort or the evacuation of the facility.

18 (b) Use of a hoax substance is a Class D felony.

19
20 5-54-210. Restitution.

21 The court may order, in addition to any other restitution ordered under
22 § 5-4-205, that a person who violates this section make restitution to the
23 state or any of its political subdivisions for any cleanup costs associated
24 with the commission of any offense in this subchapter.

25
26 SECTION 4. Arkansas Code § 5-71-210 is amended to read as follows:

27 5-71-210. Communicating a false alarm.

28 (a) A person commits the offense of communicating a false alarm if he
29 or she purposely initiates or circulates a report of a present, past, or
30 impending bombing, fire, offense, catastrophe, or other emergency knowing
31 that the report is false or baseless and knowing that it is likely:

32 (1) To cause action of any sort by an official or volunteer
33 agency organized to deal with emergencies; or

34 (2) To place any person in fear of physical injury to himself or
35 another person or of damage to his or her property or that of another person;

36 or

1 (3) To cause total or partial evacuation of any occupiable
2 structure, vehicle, or vital public facility.

3 (b)(1) Communicating a false alarm is a Class ~~D~~ C felony if physical
4 injury to a person results;

5 ~~(A) Physical injury to a person results; or~~

6 ~~(B) Otherwise, it is a Class A misdemeanor.~~

7 (2) Communicating a false alarm is a Class D felony if damage to
8 property results; or

9 (3) If there is no resulting physical injury or damage to
10 property, communicating a false alarm is a Class A misdemeanor; provided that
11 a second or subsequent offense that would otherwise be a Class A misdemeanor
12 shall be a Class D felony.

13 (c) The court may order, in addition to any other restitution ordered
14 under § 5-4-205, that a person who violates this section make restitution to
15 the state or any of its political subdivisions for any cleanup costs
16 associated with the commission of the offense.

17
18 SECTION 5. Arkansas Code § 5-10-101(a) is amended to read as follows:
19 5-10-101. Capital murder.

20 (a) A person commits capital murder if:

21 (1) Acting alone or with one (1) or more other persons, he or
22 she commits or attempts to commit terrorism, as defined in § 5-54-205, rape,
23 kidnapping, vehicular piracy, robbery, burglary, a felony violation of the
24 Uniform Controlled Substances Act §§ 5-64-101 -- 5-64-608, involving an
25 actual delivery of a controlled substance, or escape in the first degree, and
26 in the course of and in furtherance of the felony, or in immediate flight
27 therefrom, he or she or an accomplice causes the death of any person under
28 circumstances manifesting extreme indifference to the value of human life; or

29 (2) Acting alone or with one (1) or more other persons, he or
30 she commits or attempts to commit arson, and in the course of and in
31 furtherance of the felony or in immediate flight therefrom, he or she or an
32 accomplice causes the death of any person; or

33 (3) With the premeditated and deliberated purpose of causing the
34 death of any law enforcement officer, jailer, prison official, fire fighter,
35 judge or other court official, probation officer, parole officer, any
36 military personnel, or teacher or school employee, when such person is acting

1 in the line of duty, he or she causes the death of any person; or

2 (4) With the premeditated and deliberated purpose of causing the
3 death of another person, he or she causes the death of any person; or

4 (5) With the premeditated and deliberated purpose of causing the
5 death of the holder of any public office filled by election or appointment or
6 a candidate for public office, he or she causes the death of any person; or

7 (6) While incarcerated in the Department of Correction or the
8 Department of Community Punishment, he or she purposely causes the death of
9 another person after premeditation and deliberation; or

10 (7) Pursuant to an agreement that he or she cause the death of
11 another person in return for anything of value, he or she causes the death of
12 any person; or

13 (8) He or she enters into an agreement whereby one person is to
14 cause the death of another person in return for anything of value, and the
15 person hired, pursuant to the agreement, causes the death of any person; or

16 (9) Under circumstances manifesting extreme indifference to the
17 value of human life, he or she knowingly causes the death of a person
18 fourteen (14) years of age or younger at the time the murder was committed,
19 provided that the defendant was eighteen (18) years of age or older at the
20 time the murder was committed. It shall be an affirmative defense to any
21 prosecution under this subdivision (a)(9) arising from the failure of the
22 parent, guardian, or person standing in loco parentis to provide specified
23 medical or surgical treatment, that the parent, guardian, or person standing
24 in loco parentis relied solely on spiritual treatment through prayer in
25 accordance with the tenets and practices of an established church or
26 religious denomination of which he or she is a member; or

27 (10) He or she purposely discharges a firearm from a vehicle at
28 a person, or at a vehicle, conveyance, or a residential or commercial
29 occupiable structure he or she knows or has good reason to believe to be
30 occupied by a person, and thereby causes the death of another person under
31 circumstances manifesting extreme indifference to the value of human life.

32
33 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
34 General Assembly of the State of Arkansas that the State of Arkansas'
35 criminal statutes do not adequately address terrorism, as terrorism is known
36 since September 11, 2001. Therefore, an emergency is declared to exist and

1 this act being immediately necessary for the preservation of the public
2 peace, health, and safety shall become effective on:

3 (1) The date of its approval by the Governor; or

4 (2) If the bill is neither approved nor vetoed by the Governor,
5 the expiration of the period of time during which the Governor may veto the
6 bill; or

7 (3) If the bill is vetoed by the Governor and the veto is
8 overridden, the date the last house overrides the veto.

9

10 /s/ Norton

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36