

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

As Engrossed: H2/27/19

# A Bill

HOUSE BILL 1379

5 By: Representatives C. Fite, McCullough  
6 By: Senator Irvin  
7

## For An Act To Be Entitled

9 AN ACT TO RECONCILE DIFFERENCES BETWEEN THE OFFENSES  
10 OF DOMESTIC BATTERING IN THE FIRST DEGREE AND BATTERY  
11 IN THE FIRST DEGREE; TO INCREASE THE PENALTIES FOR  
12 BATTERY OFFENSES UNDER CERTAIN CIRCUMSTANCES; AND FOR  
13 OTHER PURPOSES.  
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### Subtitle

16 TO RECONCILE DIFFERENCES BETWEEN THE  
17 OFFENSES OF DOMESTIC BATTERING IN THE  
18 FIRST DEGREE AND BATTERY IN THE FIRST  
19 DEGREE; AND TO INCREASE THE PENALTIES FOR  
20 BATTERY OFFENSES UNDER CERTAIN  
21 CIRCUMSTANCES.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 *SECTION 1. Arkansas Code § 5-13-201 is amended to read as follows:*  
28 *5-13-201. Battery in the first degree.*

29 *(a) A person commits battery in the first degree if:*

30 *(1) With the purpose of causing serious physical injury to*  
31 *another person, the person causes serious physical injury to any person by*  
32 *means of a deadly weapon;*

33 *(2) With the purpose of seriously and permanently disfiguring*  
34 *another person or of destroying, amputating, or permanently disabling a*  
35 *member or organ of that other person's body, the person causes such an injury*  
36 *to any person;*



1           (3) *The person causes serious physical injury to another person*  
2 *under circumstances manifesting extreme indifference to the value of human*  
3 *life;*

4           (4) *Acting alone or with one (1) or more other persons:*

5                 (A) *The person commits or attempts to commit a felony; and*

6                 (B) *In the course of and in furtherance of the felony or*  
7 *in immediate flight from the felony:*

8                         (i) *The person or an accomplice causes serious*  
9 *physical injury to any person under circumstances manifesting extreme*  
10 *indifference to the value of human life; or*

11                       (ii) *Another person who is resisting the felony or*  
12 *flight causes serious physical injury to any person;*

13           (5) *With the purpose of causing serious physical injury to an*  
14 *unborn child or to a woman who is pregnant with an unborn child, the person*  
15 *causes serious physical injury to the unborn child;*

16           (6) *The person knowingly causes physical injury to a pregnant*  
17 *woman in the commission of a felony or a Class A misdemeanor, and in so*  
18 *doing, causes serious physical injury to the pregnant woman's unborn child,*  
19 *and the unborn child is subsequently born alive;*

20           (7) *The person knowingly, without legal justification, causes*  
21 *serious physical injury to a person he or she knows to be sixty (60) years of*  
22 *age or older or twelve (12) years of age or younger;*

23           (8) *With the purpose of causing physical injury to another*  
24 *person, the person causes physical injury to any person by means of a*  
25 *firearm; or*

26           (9) *The person knowingly causes serious physical injury to any*  
27 *person four (4) years of age or younger under circumstances manifesting*  
28 *extreme indifference to the value of human life.*

29           (b) *It is an affirmative defense in any prosecution under subdivision*  
30 *(a)(4) of this section in which the defendant was not the only participant*  
31 *that the defendant:*

32                         (1) *Did not commit the battery or in any way solicit, command,*  
33 *induce, procure, counsel, or aid the battery's commission;*

34                         (2) *Was not armed with a deadly weapon;*

35                         (3) *Reasonably believed that no other participant was armed with*  
36 *a deadly weapon; and*

1 (4) Reasonably believed that no other participant intended to  
2 engage in conduct that could result in serious physical injury.

3 (c)(1) Except as provided in subdivisions (c)(2) and (3) of this  
4 section, battery in the first degree is a Class B felony.

5 (2) Battery in the first degree is a Class Y felony under the  
6 circumstances described in subdivision (a)(2) or subdivision (a)(9) of this  
7 section.

8 (3) Battery in the first degree is a Class Y felony if the  
9 injured person is a law enforcement officer acting in the line of duty.

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11 SECTION 2. Arkansas Code § 5-26-303 is amended to read as follows:  
12 5-26-303. Domestic battering in the first degree.

13 (a) A person commits domestic battering in the first degree if:

14 (1) With the purpose of causing serious physical injury to a  
15 family or household member, the person causes serious physical injury to a  
16 family or household member by means of a deadly weapon;

17 (2) With the purpose of seriously and permanently disfiguring a  
18 family or household member or of destroying, amputating, or permanently  
19 disabling a member or organ of a family or household member's body, the  
20 person causes such an injury to a family or household member;

21 (3) The person causes serious physical injury to a family or  
22 household member under circumstances manifesting extreme indifference to the  
23 value of human life;

24 (4) The person knowingly causes serious physical injury to a  
25 family or household member he or she knows to be sixty (60) years of age or  
26 older or twelve (12) years of age or younger;

27 (5) The person:

28 (A) Commits any act of domestic battering as defined in §  
29 5-26-304 or § 5-26-305; and

30 (B) For conduct that occurred within the ten (10) years  
31 preceding the commission of the current offense, the person has on two (2)  
32 previous occasions been convicted of any act of battery against a family or  
33 household member as defined by the laws of this state or by the equivalent  
34 laws of any other state or foreign jurisdiction; ~~or~~

35 (6) With the purpose of causing physical injury to a family or  
36 household member, the person causes physical injury to a family or household

1 member by means of a firearm; or

2 (7) The person knowingly causes serious physical injury to a  
3 family or household member who is four (4) years of age or younger under  
4 circumstances manifesting extreme indifference to the value of human life.

5 (b)(1) Domestic battering in the first degree is a Class B felony.

6 (2) However, domestic battering in the first degree is a:

7 (A) Class Y felony under subdivision (a)(2) or subdivision  
8 (a)(7) of this section; or

9 (B) Class A felony ~~upon a conviction~~ under subsection (a)  
10 of this section if:

11 ~~(A)(i)~~ Committed against a woman the person knew or  
12 should have known was pregnant; or

13 ~~(B)(ii)~~ The person committed one (1) or more of the  
14 following offenses within five (5) years of the offense of domestic battering  
15 in the first degree:

16 ~~(i)(a)~~ Domestic battering in the first degree;

17 ~~(ii)(b)~~ Domestic battering in the second  
18 degree, § 5-26-304;

19 ~~(iii)(c)~~ Domestic battering in the third  
20 degree, § 5-26-305; or

21 ~~(iv)(d)~~ A violation of an equivalent penal law  
22 of this state or of another state or foreign jurisdiction.

23  
24 /s/C. Fite

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27 **APPROVED: 3/18/19**