



*Arkansas  
Sentencing  
Commission*

**Impact Assessment for SB109  
Sponsored by Senator Irvin**

**Subtitle** TO AMEND THE OFFENSE OF BATTERY IN THE FIRST DEGREE; AND TO DECLARE AN EMERGENCY.

**Impact Summary**<sup>1</sup> Medium, requiring budgetary increases for ADC inmate costs.

**Change from current law**<sup>2</sup> Amends Arkansas Code Annotated § 5-13-201(c) to add an employee of a correctional facility to the individuals covered under the conduct constituting a Class Y felony of Battery in the first degree. Currently, Battery in the first degree is a Class Y felony if the injured person is a law enforcement officer acting in the line of duty, or in certain circumstances when the victim is four (4) years of age or younger. Otherwise, Battery in the first degree is a Class B felony.

The proposed bill defines “employee of a correctional facility” as a person who is employed by, or working under a professional services contract with, the Department of Correction, the Department of Community Correction, or the Division of Youth Services of the Department of Human Services. See attached for a reprint of the code section as currently written.

**Impact Information**

The following projection was prepared with the help of JFA Associates, Denver, CO, using the Wizard Micro-simulation Projection Model. This impact assessment is based on data from the current prison population projection using Arkansas Department of Correction (ADC) data from the calendar year ending December 31, 2017.

The projected impact on the resources of ADC represents the increase in the current baseline ADC population over the next twenty (20) years. Additional budgetary requirements are calculated using \$22,356 as the average annual cost of care per inmate. This impact is limited to the effect of this proposed bill, meaning the cost listed is that which is above and beyond projected baseline prison population growth. Further, this projected impact does not include any costs associated with building new prison beds.

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<sup>1</sup> This impact assessment was prepared (1/29/2019, 8:02 a.m.) by the staff of the Arkansas Sentencing Commission pursuant to A. C. A. § 16-90-802(d)(6) with data supplied by the Arkansas Department of Correction 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 inmate costs; and “major” = would require budgetary increases for ADC inmate costs and construction costs for additional beds.

<sup>2</sup> Standard punishment ranges:

Class Y	10-40 years or life	Class C	3-10 years; up to \$10,000	Class A	Up to 1 year; up to \$2,500
Class A	6-30 years; up to \$15,000	Class D	0-6 years; up to \$10,000	Class B	Up to 90 days; up to \$1,000
Class B	5-20 years; up to \$15,000	Unclassified	As specified in statute	Class C	Up to 30 days; up to \$500

The Arkansas Department of Correction (ADC) reports that for the one year period beginning on 1/1/2018 and ending on 12/31/2018, there were fifty-one (51) instances in which an ADC correctional officer was the victim of a battery which resulted in hospitalization. The Arkansas Department of Community Correction and Division of Youth Services do not report any instances of conduct falling under this proposed bill.

In order to determine the annual increase in population, the staff of the Sentencing Commission first calculated the average length of sentence for all offenders currently serving a sentence for Battery in the first degree, Class B felony, and all offenders currently serving a sentence for Battery in the first degree, Class Y felony, except those with victims under the age of eighteen (18). The average length of sentence for the Class B felony offenders was subtracted from the average length of sentence for the Class Y felony offenders to determine the “Increased Length of Sentence” under the proposed bill. An admissions file was created containing the fifty-one (51) offenders reported by ADC to be subject to the proposed increased penalty. The tables below show the projected annual increase in cost of care over the next twenty (20) years.

Year	Assumption: All offenders receive increased penalty		Assumption: One-half of offenders receive increased penalty	
	Annual Increase in Population	Additional Annual Cost of Inmate Care	Annual Increase in Population	Additional Annual Cost of Inmate Care
2020	0	0	0	0
2021	0	0	0	0
2022	1	\$22,356	1	\$22,356
2023	1	\$22,356	1	\$22,356
2024	1	\$22,356	1	\$22,356
2025	1	\$22,356	1	\$22,356
2026	2	\$44,712	1	\$22,356
2027	3	\$67,068	2	\$44,712
2028	5	\$111,780	3	\$67,068
2029	15	\$335,340	8	\$178,848
<b>10 Year Total (Years 1-10)</b>	<b>\$648,324</b>		<b>\$402,408</b>	

Year	Assumption: All offenders receive increased penalty		Assumption: One-half of offenders receive increased penalty	
	Annual Increase in Population	Additional Annual Cost of Inmate Care	Annual Increase in Population	Additional Annual Cost of Inmate Care
2030	24	\$536,544	14	\$312,984
2031	33	\$737,748	20	\$447,120
2032	51	\$1,140,156	32	\$715,392
2033	57	\$1,274,292	32	\$715,392
2034	82	\$1,833,192	40	\$894,240
2035	96	\$2,146,176	50	\$1,117,800
2036	108	\$2,414,448	67	\$1,497,852
2037	122	\$2,727,432	85	\$1,900,260
2038	126	\$2,816,856	88	\$1,967,328
2039	138	\$3,085,128	88	\$1,967,328
<b>10 Year Total (Years 11-20)</b>	<b>\$18,711,972</b>		<b>\$11,535,696</b>	

**A.C.A. § 5-13-201. Battery in the first degree.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Was not armed with a deadly weapon;

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

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

(c)

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

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

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

HISTORY: Acts 1975, No. 280, § 1601; A.S.A. 1947, § 41-1601; Acts 1987, No. 482, § 1; 1995, No. 360, § 1; 1995, No. 1305, § 1; 2005, No. 1994, § 474; 2007, No. 622, § 1; 2007, No. 709, § 2; 2007, No. 827, § 26.