

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

Act 1342 of 2003  
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

11 THE ARKANSAS ANTI-TERRORISM ACT OF 2003.  
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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

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13 APPROVED: 4/14/2003  
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