

**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.
Act 1395 of the Regular Session**

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

A Bill

HOUSE BILL 2025

5 By: Representative Harrelson
6
7

For An Act To Be Entitled

9 AN ACT TO ADD AGGRAVATED RESIDENTIAL BURGLARY TO
10 THE LIST OF SERIOUS FELONIES INVOLVING VIOLENCE
11 IN THE HABITUAL OFFENDER STATUTE AND AS AN
12 UNDERLYING FELONY IN THE CAPITAL MURDER STATUTE;
13 AND FOR OTHER PURPOSES.
14

Subtitle

15 TO ADD AGGRAVATED RESIDENTIAL BURGLARY
16 TO THE LIST OF SERIOUS FELONIES
17 INVOLVING VIOLENCE IN THE HABITUAL
18 OFFENDER STATUTE AND AS AN UNDERLYING
19 FELONY IN THE CAPITAL MURDER STATUTE.
20
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 5-4-501(c)(2), concerning the list of
26 serious violent felonies in the habitual offender statute, is amended to read
27 as follows:

28 (2) As used in this subsection, "serious felony involving
29 violence" means:

30 (A) Any of the following felonies:

- 31 (i) Murder in the first degree, § 5-10-102;
32 (ii) Murder in the second degree, § 5-10-103;
33 (iii) Kidnapping, § 5-11-102, involving an activity
34 making it a Class Y felony;
35 (iv) Aggravated robbery, § 5-12-103;



1 (v) Terroristic act, § 5-13-310, involving an
2 activity making it a Class Y felony;

3 (vi) Rape, § 5-14-103;

4 (vii) Sexual assault in the first degree, § 5-14-
5 124; ~~or~~

6 (viii) Causing a catastrophe, § 5-38-202(a); or

7 (ix) Aggravated residential burglary, § 5-39-204; or

8
9 SECTION 2. Arkansas Code § 5-4-501(d)(2), concerning the list of
10 felonies involving violence in the habitual offender statute, is amended to
11 read as follows:

12 (2) As used in this subsection, "felony involving violence"
13 means:

14 (A) Any of the following felonies:

15 (i) Murder in the first degree, § 5-10-102;

16 (ii) Murder in the second degree, § 5-10-103;

17 (iii) Kidnapping, § 5-11-102;

18 (iv) Aggravated robbery, § 5-12-103;

19 (v) Rape, § 5-14-103;

20 (vi) Battery in the first degree, § 5-13-201;

21 (vii) Terroristic act, § 5-13-310;

22 (viii) Sexual assault in the first degree, § 5-14-
23 124;

24 (ix) Sexual assault in the second degree, § 5-14-
25 125;

26 (x) Domestic battering in the first degree, § 5-26-
27 303;

28 (xi) Aggravated residential burglary, § 5-39-204;

29 ~~(xii)~~(xii) Unlawful discharge of a firearm from a
30 vehicle, § 5-74-107;

31 ~~(xiii)~~(xiii) Criminal use of prohibited weapons, § 5-
32 73-104, involving an activity making it a Class B felony; or

33 ~~(xiv)~~(xiv) A felony attempt, solicitation, or
34 conspiracy to commit:

35 (a) Capital murder, § 5-10-101;

36 (b) Murder in the first degree, § 5-10-102;

- 1 (c) Murder in the second degree, § 5-10-103;
- 2 (d) Kidnapping, § 5-11-102;
- 3 (e) Aggravated robbery, § 5-12-103;
- 4 (f) Rape, § 5-14-103;
- 5 (g) Battery in the first degree, § 5-13-201;
- 6 or
- 7 (h) Domestic battering in the first degree, §
- 8 5-26-303; or
- 9 (i) Aggravated residential burglary, § 5-39-
- 10 204; or

11 (B) A conviction of a comparable felony involving violence
 12 from another jurisdiction.

13 SECTION 3. Arkansas Code § 5-10-101(a)(1), concerning underlying
 14 felonies in the capital murder statute, is amended to read as follows:

15 (a) A person commits capital murder if:

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

17 (A) The person commits or attempts to commit:

- 18 (i) Terrorism, as defined in § 5-54-205;
- 19 (ii) Rape, § 5-14-103;
- 20 (iii) Kidnapping, § 5-11-102;
- 21 (iv) Vehicular piracy, § 5-11-105;
- 22 (v) Robbery, § 5-12-102;
- 23 (vi) Aggravated robbery, § 5-12-103;
- 24 (vii) Residential burglary, § 5-39-201(a);
- 25 (viii) Commercial burglary, § 5-39-201(b);
- 26 (ix) Aggravated residential burglary, § 5-39-204;

27 ~~(ix)(x)~~ A felony violation of the Uniform Controlled
 28 Substances Act, §§ 5-64-101 – 5-64-508, involving an actual delivery of a
 29 controlled substance; or

30 ~~(x)(xi)~~ First degree escape, § 5-54-110; and

31 (B) In the course of and in furtherance of the felony or
 32 in immediate flight from the felony, the person or an accomplice causes the
 33 death of ~~any~~ a person under circumstances manifesting extreme indifference to
 34 the value of human life;

35
 36

APPROVED: 4/9/2009