

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Representative Pollan**

A Bill

ACT 360 OF 1995
HOUSE BILL 1410

For An Act To Be Entitled

"AN ACT TO EXPAND THE DEFINITION OF BATTERY IN THE FIRST
DEGREE; AND FOR OTHER PURPOSES."

Subtitle

"AN ACT TO EXPAND THE DEFINITION OF
BATTERY IN THE FIRST DEGREE."

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

SECTION 1. Arkansas Code § 5-13-201 is amended to read as follows:

"§ 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, he causes serious physical injury to any person by means of a deadly weapon; or

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

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

(4) Acting alone or with one (1) or more other persons, he commits or attempts to commit a felony, and in the course of and in furtherance of the felony, or in immediate flight therefrom:

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

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

(5) (A) He causes physical injury to a pregnant woman in the

1 commission of a felony or a Class A misdemeanor causing her to suffer a
2 miscarriage or stillbirth as a result of that injury; or

3 (B) He recklessly causes physical injury to a pregnant
4 woman or causes physical injury to a pregnant woman under circumstances
5 manifesting extreme indifference to the value of human life causing her to
6 suffer a miscarriage or stillbirth as a result of that injury.

7 (C) As used in subdivision (a)(5), unless the context
8 otherwise requires:

9 (i) Physical injury means the impairment of
10 physical condition, including, but not limited to, the inability to complete a
11 full-term pregnancy, as defined by the pregnant woman's physician, or the
12 infliction of substantial pain;

13 (ii) Miscarriage means the interruption of the
14 normal development of the fetus, other than by a live birth and which is not
15 an induced abortion, resulting in the complete expulsion or extraction of a
16 fetus from a pregnant woman; and

17 (iii) Stillbirth means the death of a fetus prior
18 to the complete expulsion or extraction from its mother, irrespective of the
19 duration of pregnancy and which is not an induced abortion; and death is
20 manifested by the fact that after the expulsion or extraction, the fetus does
21 not breathe spontaneously or show other evidence of life such as heart beat,
22 pulsation of the umbilical cord, or definite movement of voluntary muscles.

23 (6) He intentionally or knowingly without legal justification
24 causes serious physical injury to one he knows to be twelve (12) years of age
25 or younger.

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

29 (1) Did not commit the battery or in any way solicit, command,
30 induce, procure, counsel, or aid its commission; and

31 (2) Was not armed with a deadly weapon; and

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

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

1 (c) Battery in the first degree is a Class B felony."
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3 SECTION 2. All provisions of this act of a general and permanent nature
4 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
5 Revision Commission shall incorporate the same in the Code.
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7 SECTION 3. If any provision of this act or the application thereof to
8 any person or circumstance is held invalid, such invalidity shall not affect
9 other provisions or applications of the act which can be given effect without
10 the invalid provision or application, and to this end the provisions of this
11 act are declared to be severable.
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13 SECTION 4. All laws and parts of laws in conflict with this act are
14 hereby repealed.
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19 APPROVED: 2-20-95
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