



*Arkansas  
Sentencing  
Commission*

## **Impact Assessment for SB309**

### **Sponsored by Senator Hester**

**Subtitle TO PROVIDE THAT THE MURDER OF A JAILER OR PRISON OFFICIAL UNDER CIRCUMSTANCES MANIFESTING AN EXTREME INDIFFERENCE TO HUMAN LIFE BY A PERSON WHO IS IN CUSTODY IS CAPITAL MURDER.**

**Impact Summary<sup>1</sup>** Minimal, affecting fewer than ten offenders per year.

**Change from current law<sup>2</sup>** Amends Arkansas Code § 5-10-101(a), concerning the elements of Capital murder. A person commits Capital murder if, under circumstances manifesting extreme indifference to the value of human life, the person, while in the custody of a correctional facility or jail, knowingly causes the death of a jailer or prison official who is acting in the line of duty.

#### **Impact Information**

The Arkansas Department of Correction (ADC) reports that there has been one (1) correctional officer killed in the line of duty during the previous five-year period. The Jefferson County Sheriff's Department had one (1) juvenile detention officer killed in the line of duty during the same five-year period.

Based on the information above, new admissions to ADC are projected to be minimal.

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<sup>1</sup> This impact assessment was prepared (2/10/2015, 12:58 p.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 A	6-30 years; up to \$15,000
Class B	5-20 years; up to \$15,000

Class C	3-10 years; up to \$10,000
Class D	0-6 years; up to \$10,000
Unclassified	As specified in statute

Misdemeanors	
Class A	Up to 1 year; up to \$2,500
Class B	Up to 90 days; up to \$1,000
Class C	Up to 30 days; up to \$500

**A.C.A. § 5-10-101. Capital murder.**

(a) A person commits capital murder if:

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

(A) The person commits or attempts to commit:

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

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

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

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

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

(A) The person commits or attempts to commit arson, § 5-38-301; and

(B) In the course of and in furtherance of the felony or in immediate flight from the felony, the person or an accomplice causes the death of any person;

(3) With the premeditated and deliberated purpose of causing the death of any law enforcement officer, jailer, prison official, firefighter, judge or other court official, probation officer, parole officer, any military personnel, or teacher or school employee, when such person is acting in the line of duty, the person causes the death of any person;

(4) With the premeditated and deliberated purpose of causing the death of another person, the person causes the death of any person;

(5) With the premeditated and deliberated purpose of causing the death of the holder of any public office filled by election or appointment or a candidate for public office, the person causes the death of any person;

(6) While incarcerated in the Department of Correction or the Department of Community Correction, the person purposely causes the death of another person after premeditation and deliberation;

(7) Pursuant to an agreement that the person cause the death of another person in return for anything of value, he or she causes the death of any person;

(8) The person enters into an agreement in which a person is to cause the death of another person in return for anything of value, and a person hired pursuant to the agreement causes the death of any person;

(9) (A) Under circumstances manifesting extreme indifference to the value of human life, the person knowingly causes the death of a person fourteen (14) years of age or younger at the time the murder was committed if the defendant was eighteen (18) years of age or older at the time the murder was committed.

(B) It is an affirmative defense to any prosecution under this subdivision (a)(9) arising from the failure of the parent, guardian, or person standing in loco parentis to provide specified medical or surgical treatment, that

the parent, guardian, or person standing in loco parentis relied solely on spiritual treatment through prayer in accordance with the tenets and practices of an established church or religious denomination of which he or she is a member; or

**(10) The person:**

(A) Purposely discharges a firearm from a vehicle at a person or at a vehicle, conveyance, or a residential or commercial occupiable structure that he or she knows or has good reason to believe to be occupied by a person; and

(B) Thereby causes the death of another person under circumstances manifesting extreme indifference to the value of human life.

(b) It is an affirmative defense to any prosecution under subdivision (a)(1) of this section for an offense in which the defendant was not the only participant that the defendant did not commit the homicidal act or in any way solicit, command, induce, procure, counsel, or aid in the homicidal act's commission.

**(c) (1) Capital murder is punishable as follows:**

(A) If the defendant was eighteen (18) years of age or older at the time he or she committed the capital murder:

(i) Death; or

(ii) Life imprisonment without parole under §§ 5-4-601 -- 5-4-605, 5-4-607, and 5-4-608; or

(B) If the defendant was younger than eighteen (18) years of age at the time he or she committed the capital murder:

(i) Life imprisonment without parole as it is defined in § 5-4-606; or

(ii) Life imprisonment with the possibility of parole after serving a minimum of twenty-eight (28) years' imprisonment.

(2) For any purpose other than disposition under §§ 5-4-101 -- 5-4-104, 5-4-201 -- 5-4-204, 5-4-301 -- 5-4-307, 5-4-401 -- 5-4-404, 5-4-501 -- 5-4-504, 5-4-601 -- 5-4-605, 5-4-607, 5-4-608, 16-93-307, 16-93-313, and 16-93-314, capital murder is a Class Y felony.

**HISTORY:** Acts 1975, No. 280, § 1501; 1983, No. 341, § 1; 1985, No. 840, § 1; A.S.A. 1947, § 41-1501; Acts 1987, No. 242, § 2; 1989, No. 97, § 1; 1989, No. 856, § 1; 1991, No. 683, § 1; 1993, No. 1189, § 2; 1995, No. 258, § 1; 1995, No. 800, § 1; 2003, No. 1342, § 5; 2007, No. 827, §§ 19, 20; 2009, No. 748, § 6; 2009, No. 1395, § 3; 2011, No. 570, § 22; 2013, No. 1490, § 3.