



## ARKANSAS SENTENCING COMMISSION

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### Impact Assessment for HB1313 Sponsored by Representative Rye

**Subtitle** CONCERNING DAMAGE, DESTRUCTION, OR VANDALISM TO BUILDINGS AND OBJECTS ON THE STATE CAPITOL GROUNDS, ON THE CAPITOL MALL, AND AT THE GOVERNOR'S MANSION.

**Impact Summary**<sup>1</sup> Minimal, affecting fewer than ten offenders per year. While the offense creates a new course of conduct for which the likely number of occurrences cannot be determined, the low number of convictions for the offense as currently written makes it unlikely that the proposed bill will have a meaningful impact on the correctional resources of the state.

**Change from Current Law**<sup>2</sup> Amends Arkansas Code Annotated § 5-71-215, Defacing objects of public respect, by amending the title of the offense and adding a new course of conduct by which a person commits the offense of defacing objects of public respect. Under the proposed bill, the title of the offense is amended to "Defacing or damaging a public building or an object of public respect". Under the proposed bill, a person commits the offense of defacing or damaging a public building or an object of public respect if he or she purposely: (1) *defaces, mars, vandalizes, destroys or otherwise damages the State Capitol Building, any building on the State Capitol grounds, any building on the Capitol Mall, any building on the grounds of the Governor's Mansion, or any publicly owned monument, statue, fixture, or landscape on the State Capitol grounds, Capitol Mall, or Governor's Mansion;* (2) defaces, mars, vandalizes, destroys, or otherwise damages any public monument; (3) defaces, mars, vandalizes, destroys, or otherwise damages a work of art on display in any public place; (4) defaces, mars, desecrates, vandalizes, destroys, or otherwise damages any place of worship, cemetery, or burial monument; or (5) removes a broken or unbroken, commercial or rock, grave marker for any reason except for cleaning or repair by a family member, caretaker, or preservation organization. [New conduct is indicated by *italics*.]

The proposed bill also defines "publicly owned monument" as an object on public land that commemorates a person or persons or an event that has become relevant to a social group as a part of the social group's remembrance of historic times or is part of the social group's cultural heritage due to the object's artistic, historic, social, political, technical, or architectural importance.

<sup>1</sup> This impact assessment was prepared 2/2/2021 4:22 PM 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 Corrections 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

As currently written and under the proposed bill, the offense has varying penalties, depending on the type of object defaced and the value of repairing or replacing the damaged object. The table below details the penalty levels:

| Penalty             | Conduct   |
|---------------------|---|
| Class A misdemeanor | <ul style="list-style-type: none"> <li>Value of repairing or replacing the damaged object does not exceed \$500.</li> </ul>   |
| Class D felony      | <ul style="list-style-type: none"> <li>Value of repairing or replacing the damaged object does not exceed \$500 and the object damaged is a cemetery or burial monument.</li> <li>Value of repairing or replacing the damaged object exceeds \$500, but does not exceed \$2,500.</li> </ul> |
| Class C felony      | <ul style="list-style-type: none"> <li>Value of repairing or replacing the damaged object exceeds \$500 but does not exceed \$2,500 and the object damaged is a cemetery or burial monument.</li> <li>Value of repairing or replacing the damaged object exceeds \$2,500.</li> </ul>        |
| Class B felony      | <ul style="list-style-type: none"> <li>Value of repairing or replacing the damaged object exceeds \$2,500 and the object damaged is a cemetery or burial monument.</li> </ul>   |

**Impact Information** While the proposed bill technically creates a new course of conduct for committing the offense, the code currently contains language that prohibits “otherwise damaging” any public monument. The scope of newly created conduct is limited. Due to the low number of convictions for the offense as it currently exists, the proposed bill is projected to have a minimal impact on correctional resources.

The Arkansas Division of Correction reports no inmates currently serving a term of incarceration for a violation of A.C.A. § 5-71-215, Defacing an object of public respect, as currently written.

The Administrative Office of the Courts reports that for the three (3) year period beginning January 1, 2017 and ending December 31, 2019, there were a total of thirteen (13) felony convictions, spanning all felony classes, for a violation of A.C.A. § 5-71-215, Defacing an object of public respect, as currently written.