

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1508

5 By: Representative Brown
6

For An Act To Be Entitled

8 AN ACT CONCERNING RIOT OFFENSES AND PUBLIC
9 DEMONSTRATION OFFENSES; CONCERNING OFFENSES COMMITTED
10 AGAINST FIRST RESPONDERS; CONCERNING PUBLIC AND
11 PRIVATE PROPERTY OFFENSES; CONCERNING PROCEDURES UPON
12 ARREST FOR RIOT OFFENSES OR THE OBSTRUCTION OF A
13 HIGHWAY OR OTHER PUBLIC PASSAGE; AND FOR OTHER
14 PURPOSES.

Subtitle

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17 CONCERNING RIOT OFFENSES AND PUBLIC
18 DEMONSTRATION OFFENSES; CONCERNING
19 OFFENSES COMMITTED AGAINST FIRST
20 RESPONDERS; CONCERNING PUBLIC AND PRIVATE
21 PROPERTY OFFENSES; AND CONCERNING
22 PROCEDURES UPON ARREST.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code § 5-13-203 is amended to read as follows:
29 5-13-203. Battery in the third degree.

30 (a) A person commits battery in the third degree if:

31 (1) With the purpose of causing physical injury to another
32 person, the person causes physical injury to any person;

33 (2) The person recklessly causes physical injury to another
34 person;

35 (3) The person negligently causes physical injury to another
36 person by means of a deadly weapon; ~~or~~



1 (4) The person purposely causes stupor, unconsciousness, or
2 physical or mental impairment or injury to another person by administering to
3 the other person, without the other person's consent, any drug or other
4 substance; or

5 (5) The person knowingly causes physical contact with a first
6 responder that a reasonable person would regard as extremely offensive or
7 provocative, including without limitation spitting, throwing, or otherwise
8 transferring bodily fluids, pathogens, or human waste onto the person of a
9 first responder.

10 (b)(1) Battery in the third degree under subdivisions (a)(1)-(4) of
11 this section is a Class A misdemeanor.

12 (2) Battery in the third degree under subdivision (a)(5) of this
13 section is a Class A misdemeanor with a mandatory fine of two thousand five
14 hundred dollars (\$2,500) and a mandatory minimum sentence of at least thirty-
15 days' imprisonment for which the defendant is required to serve at least
16 thirty (30) days before being released from imprisonment.

17
18 SECTION 2. Arkansas Code Title 5, Chapter 13, Subchapter 2, is amended
19 to add an additional section to read as follows:

20 5-13-212. Aggravated assault against first responder.

21 (a) As used in this section, "first responder" means a law enforcement
22 officer, firefighter, emergency medical provider, or emergency management
23 official.

24 (b) A person commits aggravated assault against a first responder if:

25 (1) The person knowingly causes physical contact with a first
26 responder:

27 (A) That a reasonable person would regard as extremely
28 offensive or provocative, including without limitation spitting, throwing, or
29 otherwise transferring bodily fluids, pathogens, or human waste onto the
30 person of a first responder; or

31 (B) By throwing an object such as a brick, rock, bottle,
32 projectile, chemical agent, or explosive device that a reasonable person
33 knows or should know could cause physical injury if the object struck the
34 first responder;

35 (2) At the time of the physical contact, the first responder is
36 discharging or attempting to discharge his or her official duties; and

1 (3) The physical contact:

2 (A) Results in serious bodily injury to the first
 3 responder;

4 (B) Results in the death of the first responder;

5 (C) Involves the use or display of a deadly weapon; or

6 (D) Involves strangulation or attempted strangulation.

7 (c) Aggravated assault against a first responder is a Class C felony
 8 with a mandatory fine of ten thousand dollars (\$10,000) and a mandatory
 9 minimum sentence of at least ninety-days' imprisonment for which the
 10 defendant is required to serve at least ninety (90) days before being
 11 released from imprisonment.

12
 13 SECTION 3. Arkansas Code § 5-38-203 is amended to read as follows:

14 5-38-203. Criminal mischief in the first degree.

15 (a) A person commits the offense of criminal mischief in the first
 16 degree if he or she purposely and without legal justification destroys or
 17 causes damage to any:

18 (1) Property of another person; or

19 (2) Property, whether his or her own or the property of another
 20 person, for the purpose of collecting any insurance for the property.

21 (b) Criminal mischief in the first degree is a:

22 (1) Class A misdemeanor if the amount of actual damage is one
 23 thousand dollars (\$1,000) or less;

24 (2) Class D felony if the amount of actual damage is more than
 25 one thousand dollars (\$1,000) but five thousand dollars (\$5,000) or less;

26 (3) Class C felony if the amount of actual damage is more than
 27 five thousand dollars (\$5,000) but less than twenty-five thousand dollars
 28 (\$25,000); or

29 (4) Class B felony if the amount of actual damage is twenty-five
 30 thousand dollars (\$25,000) or more.

31 (c) In an action under this section involving cutting and removing
 32 timber from the property of another person:

33 (1) The following create a presumption of a purpose to commit
 34 the offense of criminal mischief in the first degree:

35 (A) The failure to obtain the survey as required by § 15-
 36 32-101; or

1 (B) The purposeful misrepresentation of the ownership or
 2 origin of the timber; and

3 (2)(A) There is imposed in addition to a penalty in subsection
 4 (b) of this section a fine of not more than two (2) times the value of the
 5 timber destroyed or damaged.

6 (B) However, in addition to subdivision (c)(2)(A) of this
 7 section, the court may require the defendant to make restitution to the owner
 8 of the timber.

9 (d) A person convicted of a felony offense under this section is
 10 subject to an enhanced sentence of an additional term of imprisonment of five
 11 (5) years at the discretion of the court if the finder of fact finds that the
 12 damage to property involved the removal of nonferrous metal, as it is defined
 13 in § 17-44-101.

14 (e) If the property destroyed or damaged under this section was a
 15 residential mailbox or other container that the defendant knew or reasonably
 16 should have known was used for the receipt or deposit of United States mail
 17 or if the property was damaged by painting or other permanent application of
 18 graffiti, the court shall include as part of the sentence:

19 (1) An order of restitution for property damage or loss incurred
 20 as a result of the offense; and

21 (2) An additional punishment of twenty-five (25) hours of
 22 community service.

23
 24 SECTION 4. Arkansas Code § 5-38-204 is amended to read as follows:

25 5-38-204. Criminal mischief in the second degree.

26 (a) A person commits criminal mischief in the second degree if the
 27 person:

28 (1) Recklessly destroys or damages any property of another
 29 person; or

30 (2) Purposely tampers with any property of another person and by
 31 the tampering causes substantial inconvenience to the owner or another
 32 person.

33 (b) Criminal mischief in the second degree is a:

34 (1) Class A misdemeanor if the amount of actual damage is one
 35 thousand dollars (\$1,000) or more but less than five thousand dollars
 36 (\$5,000);

1 (2) Class D felony if the amount of actual damage is five
2 thousand dollars (\$5,000) or more; or

3 (3) Class B misdemeanor if otherwise committed.

4 (c) A person convicted of a felony offense under this section is
5 subject to an enhanced sentence of an additional term of imprisonment of five
6 (5) years at the discretion of the court if the finder of fact finds that the
7 damage to property involved the removal of nonferrous metal, as it is defined
8 in § 17-44-101.

9 (d) If the property destroyed or damaged under this section was a
10 residential mailbox or other container that the defendant knew or reasonably
11 should have known was used for the receipt or deposit of United States mail
12 or if the property was damaged by painting or other permanent application of
13 graffiti, the court shall include as part of the sentence:

14 (1) An order of restitution for property damage or loss incurred
15 as a result of the offense; and

16 (2) An additional punishment of twenty-five (25) hours of
17 community service.

18
19 SECTION 5. Arkansas Code Title 5, Chapter 54, Subchapter 1, is amended
20 to add an additional section to read as follows:

21 5-54-123. Unlawful possession of state property.

22 (a) A person may not knowingly take possession, keep possession, or
23 otherwise occupy or continue to maintain his or her presence on or in the
24 buildings and grounds of any institution owned and operated by the State of
25 Arkansas, whether the institution is enclosed or unenclosed, after he or she
26 has been notified by a security officer or other authorized employee of the
27 institution to leave.

28 (b) A person violating this section upon conviction is guilty of an
29 unclassified misdemeanor and shall be sentenced to a fine of not less than
30 one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or by
31 imprisonment for a period not to exceed six (6) months, or by both fine and
32 imprisonment.

33
34 SECTION 6. Arkansas Code § 5-71-201 is amended to read as follows:

35 5-71-201. Riot.

36 (a) A person commits the offense of riot if, with two (2) or more

1 other persons, he or she knowingly engages in tumultuous or violent conduct
 2 that creates a substantial risk of:

- 3 (1) Causing public alarm;
- 4 (2) Disrupting the performance of a governmental function; or
- 5 (3) Damaging or injuring property or a person.

6 (b)(1) Riot is a Class A misdemeanor.

7 (2) A person convicted of riot shall be sentenced to a minimum
 8 of thirty-days' imprisonment and shall be ordered to pay restitution for any
 9 injury, damage, or loss incurred as a result of the offense.

10
 11 SECTION 7. Arkansas Code § 5-71-202 is amended to read as follows:
 12 5-71-202. Aggravated riot.

13 (a) A person commits the offense of aggravated riot if he or she
 14 commits the offense of riot when:

- 15 (1) The person knowingly possesses a deadly weapon; or
- 16 (2) The person knows that another person with whom he or she is
 17 acting possesses a deadly weapon.

18 (b)(1) Aggravated riot is a Class D felony.

19 (2) A person convicted of aggravated riot shall be sentenced to
 20 a minimum of forty-five-days' imprisonment and shall be ordered to pay
 21 restitution for any injury, damage, or loss incurred as a result of the
 22 offense.

23
 24 SECTION 8. Arkansas Code § 5-71-203 is amended to read as follows:
 25 5-71-203. Inciting riot.

26 (a) A person commits the offense of inciting riot if he or she
 27 knowingly:

- 28 (1) By speech or conduct urges others to participate in a riot
 29 under circumstances that produce a clear and present danger that they will
 30 participate in a riot; or
- 31 (2) Gives commands, instructions, or signals to others in
 32 furtherance of a riot.

33 (b)(1) Inciting riot is a Class D felony if injury to a person or
 34 damage to property results from the offense.

35 (2)(A) Otherwise, inciting riot is a Class A misdemeanor.

36 (B) A person convicted of inciting a riot shall be ordered

1 to pay restitution for any injury, damage, or loss incurred as a result of
 2 the offense.

3
 4 SECTION 9. Arkansas Code § 5-71-207 is amended to read as follows:
 5 5-71-207. Disorderly conduct.

6 (a) A person commits the offense of disorderly conduct if, with the
 7 purpose to cause public inconvenience, annoyance, or alarm or recklessly
 8 creating a risk of public inconvenience, annoyance, or alarm, he or she:

9 (1) Engages in fighting or in violent, threatening, or
 10 tumultuous behavior;

11 (2) Makes unreasonable or excessive noise;

12 (3) In a public place, uses abusive or obscene language, or
 13 makes an obscene gesture, in a manner likely to provoke a violent or
 14 disorderly response;

15 (4) Disrupts or disturbs any lawful assembly, procession, or
 16 meeting of persons;

17 (5) Obstructs vehicular or pedestrian traffic;

18 (6) Congregates with two (2) or more other persons in a public
 19 place and refuses to comply with a lawful order to disperse of a law
 20 enforcement officer or other person engaged in enforcing or executing the
 21 law;

22 (7) Creates a hazardous or physically offensive condition;

23 (8) In a public place, mars, defiles, desecrates, or otherwise
 24 damages a patriotic or religious symbol that is an object of respect by the
 25 public or a substantial segment of the public; or

26 (9) In a public place, exposes his or her private parts.

27 (b) Disorderly conduct is a:

28 (1) Class A misdemeanor under subdivision (a)(4) of this
 29 section; and

30 (2) Class C misdemeanor if otherwise committed.

31
 32 SECTION 10. Arkansas Code § 5-71-214 is amended to read as follows:
 33 5-71-214. Obstructing a highway or other public passage.

34 (a) A person commits the offense of obstructing a highway or other
 35 public passage if, having no legal privilege to do so and acting alone or
 36 with another person, he or she renders any highway or other public passage

1 impassable to pedestrian or vehicular traffic.

2 (b) It is a defense to a prosecution under this section that:

3 (1) The highway or other public passage was rendered impassable
4 solely because of a gathering of persons to hear the defendant speak or
5 otherwise communicate;

6 (2) The defendant was a member of a gathering contemplated by
7 subdivision (b)(1) of this section; or

8 (3) The highway or public passage obstructed has not been
9 established as a city street, county road, or state or federal highway under
10 the laws of this state and no civil court has established a right of passage
11 by prescription for the highway or public passage.

12 (c) Obstructing a highway or other public passage is a Class G A
13 misdemeanor.

14
15 SECTION 11. Arkansas Code Title 12, Chapter 12, Subchapter 1, is
16 amended to add an additional section to read as follows:

17 12-12-111. Investigation by Attorney General.

18 (a) The Attorney General may conduct an investigation when the
19 Attorney General receives information sufficient to constitute probable cause
20 to investigate one (1) or more of the following offenses:

21 (1) Riot, § 5-71-201;

22 (2) Aggravated riot, § 5-71-202;

23 (3) Inciting riot, § 5-71-203; or

24 (4) Obstructing a highway or other public passage, § 5-71-214.

25 (b) The Attorney General may refer findings of an investigation under
26 this section to the prosecuting attorney with jurisdiction for possible
27 criminal prosecution.

28
29 SECTION 12. Arkansas Code Title 16, Chapter 81, Subchapter 1, is
30 amended to add an additional section to read as follows:

31 16-81-119. Required hold on certain arrestees.

32 (a)(1) Subject to United States and Arkansas constitutional provisions
33 or a valid court order, and except as provided by subsection (b) of this
34 section, a person arrested for riot, § 5-71-201, aggravated riot, § 5-71-202,
35 inciting riot, § 5-71-203, or obstructing a highway or other public passage,
36 § 5-71-214, shall not be released on bail or on the person's own recognizance

1 within twelve (12) hours from the time of his or her arrest.

2 (2) A law enforcement officer who arrests a person under this
3 subsection shall record the date and time of the person's arrest to establish
4 the beginning of the twelve-hour period under subdivision (a)(1) of this
5 section.

6 (b)(1) A court, magistrate, or other authorized law enforcement
7 officer that finds that the person subject to subsection (a) of this section
8 is not likely to resume immediately the behavior that led to the person's
9 arrest based on the circumstances of the arrest as well as on the person's
10 prior criminal history may authorize the person to be released.

11 (2) A decision by an authorized law enforcement officer to
12 release a person from custody under subdivision (b)(1) of this section shall
13 make written findings evidencing his or her decision, with the written
14 findings to be attached to the arrest warrant and preserved as part of the
15 arrest record.

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