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4

As Engrossed: H3/8/21

A Bill

HOUSE BILL 1508

5 By: Representatives Brown, Lowery, Christiansen, S. Berry, Bentley, Breaux, Cloud, Coleman, Crawford,
6 Evans, Hollowell, McClure, S. Meeks, Rye, Slape, B. Smith, S. Smith, Wooten
7 By: Senator A. Clark
8

For An Act To Be Entitled

9
10 AN ACT CONCERNING RIOT OFFENSES AND PUBLIC
11 DEMONSTRATION OFFENSES; CONCERNING OFFENSES COMMITTED
12 AGAINST FIRST RESPONDERS; CONCERNING PUBLIC AND
13 PRIVATE PROPERTY OFFENSES; CONCERNING PROCEDURES UPON
14 ARREST FOR RIOT OFFENSES OR THE OBSTRUCTION OF A
15 HIGHWAY OR OTHER PUBLIC PASSAGE; AND FOR OTHER
16 PURPOSES.
17

Subtitle

18
19
20 CONCERNING RIOT OFFENSES AND PUBLIC
21 DEMONSTRATION OFFENSES; CONCERNING
22 OFFENSES COMMITTED AGAINST FIRST
23 RESPONDERS; CONCERNING PUBLIC AND PRIVATE
24 PROPERTY OFFENSES; AND CONCERNING
25 PROCEDURES UPON ARREST.
26
27

28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
29

30 SECTION 1. Arkansas Code § 5-13-203 is amended to read as follows:
31 5-13-203. Battery in the third degree.

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

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

35 (2) The person recklessly causes physical injury to another
36 person;



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

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

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

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

14 (2) Battery in the third degree under subdivision (a)(5) of this
15 section is a:

16 (A) Class D felony if the defendant resides in another state and
17 traveled to this state with the purpose to commit the offense; or

18 (B) Class A misdemeanor with a mandatory fine of two thousand
19 five hundred dollars (\$2,500) and a mandatory minimum sentence of at least
20 thirty (30) days of imprisonment for which the defendant is required to serve
21 at least thirty (30) days before being released from imprisonment.

22
23 SECTION 2. Arkansas Code Title 5, Chapter 13, Subchapter 2, is amended
24 to add an additional section to read as follows:

25 5-13-212. Aggravated assault against first responder.

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

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

30 (1) The person knowingly causes physical contact with a first
31 responder:

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

36 (B) By throwing an object such as a brick, rock, bottle,

1 projectile, chemical agent, or explosive device that a reasonable person
2 knows or should know could cause physical injury if the object struck the
3 first responder;

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

6 (3) The physical contact:

7 (A) Results in serious bodily injury to the first
8 responder;

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

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

11 (D) Involves strangulation or attempted strangulation.

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

17
18 SECTION 3. Arkansas Code § 5-38-203 is amended to read as follows:

19 5-38-203. Criminal mischief in the first degree.

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

23 (1) Property of another person; or

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

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

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

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

31 (3) Class C felony if the amount of actual damage is more than
32 five thousand dollars (\$5,000) but less than twenty-five thousand dollars
33 (\$25,000); or

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

36 (c) In an action under this section involving cutting and removing

1 timber from the property of another person:

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

4 (A) The failure to obtain the survey as required by § 15-
5 32-101; or

6 (B) The purposeful misrepresentation of the ownership or
7 origin of the timber; and

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

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

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

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

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

26 (2) An additional punishment of twenty-five (25) hours of at
27 least community service.

28
29 SECTION 4. Arkansas Code § 5-38-204 is amended to read as follows:

30 5-38-204. Criminal mischief in the second degree.

31 (a) A person commits criminal mischief in the second degree if the
32 person:

33 (1) Recklessly destroys or damages any property of another
34 person; or

35 (2) Purposely tampers with any property of another person and by
36 the tampering causes substantial inconvenience to the owner or another

1 person.

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

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

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

8 (3) Class B misdemeanor if otherwise committed.

9 (c) 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 (d) 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 at
22 least community service.

23
24 SECTION 5. Arkansas Code Title 5, Chapter 54, Subchapter 1, is amended
25 to add an additional section to read as follows:

26 5-54-123. Unlawful possession of state property.

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

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

1 imprisonment.

2

3 SECTION 6. Arkansas Code § 5-54-201(1)(F), concerning the definition
4 of "act of terrorism", is amended to read as follows:

5 (F) Any act that causes substantial damage to or
6 destruction of:

7 (i) Any hospital; or

8 (ii) Any building, ~~or~~ facility, or monument used,
9 owned, or maintained by:

10 (a) The United States Government;

11 (b) State government;

12 (c) Any unit of local government;

13 (d) A national defense contractor;

14 (e) A public utility; or

15 (f) A manufacturer of chemical or biological
16 products used in or in connection with agricultural production or the storage
17 or processing of agricultural products or the preparation of agricultural
18 products for food or food products intended for resale or for feed for
19 livestock; or

20

21 SECTION 7. Arkansas Code § 5-71-201 is amended to read as follows:

22 5-71-201. Riot.

23 (a) A person commits the offense of riot if, with two (2) or more
24 other persons, he or she knowingly engages in tumultuous or violent conduct
25 that creates a substantial risk of:

26 (1) Causing public alarm;

27 (2) Disrupting the performance of a governmental function; or

28 (3) Damaging or injuring property or a person.

29 (b)(1) Riot is a:

30 (A) Class D felony if the defendant resides in another
31 state and traveled to this state with the purpose to commit the offense; or

32 (B) Class A misdemeanor, if otherwise committed.

33 (2) A person convicted of riot shall be sentenced to a minimum
34 of thirty (30) days of imprisonment for which the defendant is required to
35 serve at least thirty (30) days before being released from imprisonment and
36 shall be ordered to pay restitution for any injury, damage, or loss incurred

1 as a result of the offense.

2
3 SECTION 8. Arkansas Code § 5-71-202 is amended to read as follows:
4 5-71-202. Aggravated riot.

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

7 (1) The person knowingly possesses a deadly weapon; or

8 (2) The person knows that another person with whom he or she is
9 acting possesses a deadly weapon.

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

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

15
16 SECTION 9. Arkansas Code § 5-71-203 is amended to read as follows:
17 5-71-203. Inciting riot.

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

20 (1) By speech or conduct urges others to participate in a riot
21 under circumstances that produce a clear and present danger that they will
22 participate in a riot; or

23 (2) Gives commands, instructions, or signals to others in
24 furtherance of a riot.

25 (b)(1) *Inciting riot is a Class D felony if ~~injury~~:*

26 (A) Injury to a person or damage to property results from
27 the offense; or

28 (B) The defendant resides in another state and traveled to
29 this state with the purpose to commit the offense.

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

31 (B) A person convicted of inciting a riot shall be ordered
32 to pay restitution for any injury, damage, or loss incurred as a result of
33 the offense.

34
35 SECTION 10. Arkansas Code § 5-71-207 is amended to read as follows:
36 5-71-207. Disorderly conduct.

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

4 (1) Engages in fighting or in violent, threatening, or
5 tumultuous behavior;

6 (2) Makes unreasonable or excessive noise;

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

10 (4) Disrupts or disturbs any lawful assembly, procession, or
11 meeting of persons;

12 (5) Obstructs vehicular or pedestrian traffic;

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

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

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

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

22 (b) Disorderly conduct is a:

23 (1) Class A misdemeanor under subdivision (a)(4) of this
24 section; and

25 (2) Class C misdemeanor if otherwise committed.
26

27 SECTION 11. Arkansas Code § 5-71-214 is amended to read as follows:

28 5-71-214. Obstructing a highway or other public passage.

29 (a) A person commits the offense of obstructing a highway or other
30 public passage if, having no legal privilege to do so and acting alone or
31 with another person, he or she renders any highway or other public passage
32 impassable to pedestrian or vehicular traffic.

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

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

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

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

7 (c) Obstructing a highway or other public passage is a Class C A
8 misdemeanor.

9
10 SECTION 12. Arkansas Code Title 12, Chapter 12, Subchapter 1, is
11 amended to add an additional section to read as follows:

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

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

16 (1) Riot, § 5-71-201;

17 (2) Aggravated riot, § 5-71-202;

18 (3) Inciting riot, § 5-71-203; or

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

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

23
24 SECTION 13. Arkansas Code Title 16, Chapter 81, Subchapter 1, is
25 amended to add an additional section to read as follows:

26 16-81-119. Required hold on certain arrestees.

27 (a)(1) Subject to United States and Arkansas constitutional provisions
28 or a valid court order, and except as provided by subsection (b) of this
29 section, a person arrested for riot, § 5-71-201, aggravated riot, § 5-71-202,
30 inciting riot, § 5-71-203, or obstructing a highway or other public passage,
31 § 5-71-214, shall not be released on bail or on the person's own recognizance
32 within twelve (12) hours from the time of his or her arrest.

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

