

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas As Engrossed: H3/8/21 H3/9/21 H3/15/21

2 93rd General Assembly

A Bill

3 Regular Session, 2021

HOUSE BILL 1508

4

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, Bryant, Watson

7 By: Senator A. Clark

8

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For An Act To Be Entitled

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.

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Subtitle

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 Title 5, Chapter 13, Subchapter 1, is amended
31 to add an additional section to read as follows:

32 5-13-101. Definition.

33 As used in this chapter, "first responder" means a law enforcement
34 officer, firefighter, emergency medical provider, or emergency management
35 official.

36



1 SECTION 2. Arkansas Code § 5-13-203 is amended to read as follows:
2 5-13-203. Battery in the third degree.

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

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

6 (2) The person recklessly causes physical injury to another
7 person;

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

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

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

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

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

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

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

29
30 SECTION 3. Arkansas Code Title 5, Chapter 13, Subchapter 2, is amended
31 to add an additional section to read as follows:

32 5-13-212. Aggravated assault against first responder.

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

34 (1) The person knowingly causes physical contact with a first
35 responder:

36 (A) That a reasonable person would regard as extremely

1 offensive or provocative, including without limitation spitting, throwing, or
2 otherwise transferring bodily fluids, pathogens, or human waste onto the
3 person of a first responder; or

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

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

10 (3) The physical contact:

11 (A) Results in serious bodily injury to the first
12 responder;

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

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

15 (D) Involves strangulation or attempted strangulation.

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

21
22 SECTION 4. Arkansas Code § 5-38-203 is amended to read as follows:

23 5-38-203. Criminal mischief in the first degree.

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

27 (1) Property of another person; or

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

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

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

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

35 (3) Class C felony if the amount of actual damage is more than
36 five thousand dollars (\$5,000) but less than twenty-five thousand dollars

1 (\$25,000); or

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

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

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

8 (A) The failure to obtain the survey as required by § 15-
9 32-101; or

10 (B) The purposeful misrepresentation of the ownership or
11 origin of the timber; and

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

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

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

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

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

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

32
33 SECTION 5. Arkansas Code § 5-38-204 is amended to read as follows:
34 5-38-204. Criminal mischief in the second degree.

35 (a) A person commits criminal mischief in the second degree if the
36 person:

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

3 (2) Purposely tampers with any property of another person and by
4 the tampering causes substantial inconvenience to the owner or another
5 person.

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

7 (1) Class A misdemeanor if the amount of actual damage is one
8 thousand dollars (\$1,000) or more but less than five thousand dollars
9 (\$5,000);

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

12 (3) Class B misdemeanor if otherwise committed.

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

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

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

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

27
28 SECTION 6. Arkansas Code Title 5, Chapter 54, Subchapter 1, is amended
29 to add an additional section to read as follows:

30 5-54-123. Unlawful possession of state property.

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

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

6
7 SECTION 7. Arkansas Code § 5-54-201(1)(F), concerning the definition
8 of "act of terrorism", is amended to read as follows:

9 (F) Any act that causes substantial damage to or
10 destruction of:

11 (i) Any hospital; or

12 (ii) Any building, ~~or~~ facility, or monument used,
13 owned, or maintained by:

14 (a) The United States Government;

15 (b) State government;

16 (c) Any unit of local government;

17 (d) A national defense contractor;

18 (e) A public utility; or

19 (f) A manufacturer of chemical or biological
20 products used in or in connection with agricultural production or the storage
21 or processing of agricultural products or the preparation of agricultural
22 products for food or food products intended for resale or for feed for
23 livestock; or

24
25 SECTION 8. Arkansas Code § 5-71-201 is amended to read as follows:

26 5-71-201. Riot.

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

30 (1) Causing public alarm;

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

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

33 (b)(1) Riot is a:

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

36 (B) Class A misdemeanor if otherwise committed.

1 (2) A person convicted of riot shall be sentenced to a minimum
2 of thirty (30) days of imprisonment for which the defendant is required to
3 serve at least thirty (30) days before being released from imprisonment and
4 shall be ordered to pay restitution for any injury, damage, or loss incurred
5 as a result of the offense.

6
7 SECTION 9. Arkansas Code § 5-71-202 is amended to read as follows:
8 5-71-202. Aggravated riot.

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

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

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

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

15 (2) A person convicted of aggravated riot shall be sentenced to
16 a minimum of forty-five (45) days' imprisonment and shall be ordered to pay
17 restitution for any injury, damage, or loss incurred as a result of the
18 offense.

19
20 SECTION 10. Arkansas Code § 5-71-203 is amended to read as follows:
21 5-71-203. Inciting riot.

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

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

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

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

30 (A) Injury to a person or damage to property results from
31 the offense; or

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

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

35 (B) A person convicted of inciting a riot shall be ordered
36 to pay restitution for any injury, damage, or loss incurred as a result of

1 the offense.

2

3 SECTION 11. Arkansas Code § 5-71-207 is amended to read as follows:

4 5-71-207. Disorderly conduct.

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

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

10 (2) Makes unreasonable or excessive noise;

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

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

16 (5) Obstructs vehicular or pedestrian traffic;

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

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

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

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

26 (b) Disorderly conduct is a:

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

29 (2) Class C misdemeanor if otherwise committed.

30

31 SECTION 12. Arkansas Code § 5-71-214 is amended to read as follows:

32 5-71-214. Obstructing a highway or other public passage.

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

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

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

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

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

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

13
14 SECTION 13. Arkansas Code Title 12, Chapter 12, Subchapter 1, is
15 amended to add an additional section to read as follows:

16 12-12-111. Investigation by Attorney General.

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

20 (1) Riot, § 5-71-201;

21 (2) Aggravated riot, § 5-71-202;

22 (3) Inciting riot, § 5-71-203; or

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

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

27
28 SECTION 14. Arkansas Code Title 16, Chapter 81, Subchapter 1, is
29 amended to add an additional section to read as follows:

30 16-81-119. Required hold on certain arrestees.

31 (a)(1) Subject to United States and Arkansas constitutional provisions
32 or a valid court order, and except as provided by subsection (b) of this
33 section, a person arrested for riot, § 5-71-201, aggravated riot, § 5-71-202,
34 inciting riot, § 5-71-203, or obstructing a highway or other public passage,
35 § 5-71-214, shall not be released on bail or on the person's own recognizance
36 within twelve (12) hours from the time of his or her arrest.

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

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

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

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16 /s/Brown
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