



ARKANSAS SENTENCING COMMISSION

1302 Pike Avenue, Suite E • North Little Rock, AR 72114
Phone: (501) 682-5001 • Fax: (501) 682-5018

Impact Assessment for HB1321 Sponsored by Representative Gazaway

Subtitle CONCERNING OFFENSES COMMITTED AGAINST CRITICAL INFRASTRUCTURE.

Impact Summary¹ Cannot be determined. The proposed bill amends courses of conduct by which a person can commit various property offenses involving critical infrastructure. While the changes to conduct are limited in scope, some instances may result in an increased penalty. Because available data does not distinguish those offenses which would be subject to an increased penalty under the proposed bill, the impact cannot be determined.

Change from Current Law² Amends various provisions of Title 5 of the Arkansas Code Annotated concerning property offenses committed against critical infrastructure and defines the terms critical infrastructure and electronic asset.

The proposed bill amends A.C.A. § 5-38-203, Criminal mischief, to add an additional course of conduct by which a person can commit the offense of Criminal mischief in the first degree. Under the proposed bill, a person commits the offense of criminal mischief in the first degree if he or she purposely and without legal justification destroys or causes damage to any (1) property of another, (2) property whether his or her own property of another for the purpose of collecting any insurance for the property, or (3) *critical infrastructure*. [Added language is indicated in *italics*.] Under the proposed bill, Criminal mischief in the first degree is a Class B felony if the property is critical infrastructure. Penalties for other types of criminal mischief in the first degree are unchanged by the proposed bill.

The proposed bill amends A.C.A. § 5-39-203, Criminal trespass, to create an additional course of conduct by which a person can commit the offense of Criminal trespass. Under the proposed bill a person commits criminal trespass if he or she purposely enters or remains unlawfully in or upon (1) a vehicle of another person, (2) premises owned or leased by another person, or (3) *critical infrastructure*. [Added language is indicated in *italics*.] Under the proposed bill Criminal trespass is a Class D felony if the premises are critical infrastructure. Penalties for other types of criminal trespass are unchanged by the proposed bill.

The proposed bill amends A.C.A. § 5-39-305, Criminal trespass on premises located in an unincorporated area, to create an additional course of conduct by which a person can commit the offense of Criminal trespass on

¹ This impact assessment was prepared 2/12/2021 11:38 AM 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.

² 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

premises located in an unincorporated area. Under the proposed bill a person commits criminal trespass on premises located in an unincorporated area if he or she purposely enters without written permission of the owner or lessee upon another person's premises located outside the boundary of any city or town if those premises if those premises are (A) lawfully posted, (B) crop land or timber land, (C) enclosed with a fence, or (D) *critical infrastructure*. [Added language is indicated in *italics*.] Under the proposed bill Criminal trespass on premises located in an unincorporated area is a Class D felony if the premises are critical infrastructure. Penalties for other types of criminal trespass are unchanged by the proposed bill.

Impact Information The proposed bill increases penalties for certain courses of conduct by which a person can commit the offenses of Criminal mischief, Criminal trespass, and Criminal trespass on premises located in an unincorporated area. Data on convictions for these offenses does not indicate the specific circumstances of the offense. For this reason, the impact of the proposed bill cannot be determined.

The Arkansas Division of Correction (ADC) reports 105 inmates currently serving a term of incarceration for a felony violation of A.C.A. § 5-38-203, Criminal Mischief, covering all felony classes. One (1) of these offenders are serving a term of incarceration for which A.C.A. § 5-38-203 (b)(2), Criminal Mischief I - Damage > \$1,000 ≤ \$5,000, a Class D felony, is the most serious offense. Two (2) of these offenders are serving a term of incarceration for which A.C.A. § 5-38-203 (b)(3), Criminal Mischief I - Damage > \$5,000 < \$25,000, a Class C felony, is the most serious offense. Three (3) of these offenders are serving a term of incarceration for which A.C.A. § 5-38-203 (b)(4), Criminal Mischief I - Damage ≥ \$25,000, a Class B felony, is the most serious offense. The ADC reports no inmates serving a term of incarceration for a violation of A.C.A. § 5-39-203, Criminal Trespass, a Class D felony, or A.C.A. § 5-39-305, Criminal Trespass on Premises Located in Unincorporated Area, a Class D felony.