



ARKANSAS SENTENCING COMMISSION

1302 Pike Avenue, Suite E • North Little Rock, AR 72114

Phone: (501) 682-5001 • Fax: (501) 682-5018

Impact Assessment for SB553 Sponsored by Senator M. Johnson

Subtitle TO CREATE THE ARKANSAS STATE CAPITOL AND HISTORICAL MONUMENT PROTECTION ACT.

Impact Summary¹ Minimal, affecting fewer than ten offenders per year. While the proposed bill creates new criminal offenses for which the likely number of occurrences cannot be determined, the conduct covered by the proposed bill could potentially be charged under existing provisions of the criminal code.

Change from Current Law² Creates Arkansas Code Annotated §§ 22-3-2101 et. seq., the Arkansas State Capitol and Historical Monument Protection Act. The proposed bill prohibits vandalizing, damaging, destroying, or otherwise disturbing the State Capitol. The proposed bill also prohibits relocating, vandalizing, damaging, destroying, removing, altering, renaming, rededicating, or otherwise disturbing a historical monument. Under the proposed bill, for a knowing violation of the Arkansas State Capitol and Historical Monument Protection Act, a person is guilty of a Class A misdemeanor if the value of the property is more than five hundred (\$500); and the damage or repair cost to the historical monument is more than one hundred dollars (\$100). A violation of the Arkansas State Capitol and Historical Monument Protection Act is a Class D felony if the person has been previously convicted of violating the Arkansas State Capitol and Historical Monument Protection Act and the value of the property is more than one thousand dollars (\$1,000) or the damage or repair cost to the historical monument is more than one thousand dollars (\$1,000).

The proposed bill also provides exceptions required for the protection, preservation, care, repair, or restoration of the State Capitol or a historical monument and defines “historical monument,” “person,” “public property,” and “State Capitol.”

Impact Information The proposed bill creates a Class D felony for a subsequent violation of the Arkansas State Capitol and Historical Monument Protection Act. While the exact number of occurrences of the offense cannot be determined, some conduct covered by the proposed bill could potentially be charged under existing criminal provisions. [See attached for a reproduction of relevant code sections.] Because there are few convictions for similar offenses, the proposed bill is projected to have a minimal impact on the correctional resources of the state.

The 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.

¹ This impact assessment was prepared 3/18/2021 11:33 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

A.C.A. § 5-71-215. Defacing objects of public respect.

(a) A person commits the offense of defacing objects of public respect if he or she purposely:

(1) Defaces, mars, or otherwise damages any public monument;

(2) Defaces, mars, or otherwise damages a work of art on display in any public place;

(3) Defaces, mars, desecrates, or otherwise damages any place of worship, cemetery, or burial monument; or

(4) 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.

(b)

(1)

(A) Except as provided in subdivision (b)(1)(B) of this section, defacing objects of public respect is a Class A misdemeanor if the value of repairing or replacing the damaged object does not exceed five hundred dollars (\$500).

(B) Defacing objects of public respect is a Class D felony if the value of repairing or replacing the damaged object does not exceed five hundred dollars (\$500) and if the object that is defaced, marred, desecrated, or otherwise damaged is a cemetery or burial monument.

(2)

(A) Except as provided in subdivision (b)(2)(B) of this section, defacing objects of public respect is a Class D felony if the value of repairing or replacing the damaged object exceeds five hundred dollars (\$500), but does not exceed two thousand five hundred dollars (\$2,500).

(B) Defacing objects of public respect is a Class C felony if the value of repairing or replacing the damaged object exceeds five hundred dollars (\$500) but does not exceed two thousand five hundred dollars (\$2,500) and if the object that is defaced, marred, desecrated, or otherwise damaged is a cemetery or burial monument.

(3)

(A) Except as provided in subdivision (b)(3)(B) of this section, defacing objects of public respect is a Class C felony if the value of repairing or replacing the damaged object exceeds two thousand five hundred dollars (\$2,500).

(B) Defacing objects of public respect is a Class B felony if the value of repairing or replacing the damaged object exceeds two thousand five hundred dollars (\$2,500) and if the object that is defaced, marred, desecrated, or otherwise damaged is a cemetery or burial monument.

History

Acts 1975, No. 280, § 2916; A.S.A. 1947, § 41-2916; Acts 1993, No. 169, § 1; 2005, No. 2232, § 4; 2007, No. 266, § 1.

A.C.A. § 5-38-203. Criminal mischief in the first degree.

(a) 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; or

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

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

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

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

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

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

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

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

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

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

(2)

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

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

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

History

Acts 1975, No. 280, § 1906; 1977, No. 360, § 7; 1981, No. 544, § 2; 1981, No. 671, § 1; A.S.A. 1947, § 41-1906; Acts 1988 (3rd Ex. Sess.), No. 13, § 1; 1995, No. 1296, § 5; 1997, No. 448, § 1; 2005, No. 1994, § 443; 2011, No. 570, § 29; 2013, No. 1354, § 5.

A.C.A. § 5-38-204. Criminal mischief in the second degree.

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

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

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

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

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

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

(3) Class B misdemeanor if otherwise committed.

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

History

Acts 1975, No. 280, § 1907; A.S.A. 1947, § 41-1907; Acts 1989, No. 735, § 1; 2011, No. 570, § 30; 2013, No. 1354, § 6.