



Arkansas  
Sentencing  
Commission

Impact Assessment for HB1379  
Sponsored by Representative C. Fite

**Subtitle** TO RECONCILE DIFFERENCES BETWEEN THE OFFENSES OF DOMESTIC BATTERING IN THE FIRST DEGREE AND BATTERY IN THE FIRST DEGREE; AND TO INCREASE THE PENALTIES FOR BATTERY OFFENSES UNDER CERTAIN CIRCUMSTANCES.

**Impact Summary**<sup>1</sup> Cannot be determined.

**Change from current law**<sup>2</sup> Makes various amendments to A.C.A. § 5-13-201, Battery in the first degree and A.C.A. § 5-26-303, Domestic battery in the first degree. This impact focuses solely on new courses of conduct and increased penalties. See attached for reproduction of the full statutes as written under current law.

Section 1 of the proposed bill amends A.C.A. § 5-13-201 (a)(7). Under the proposed bill, a person commits the offense of Battery in the first degree if he or she knowingly, without legal justification, causes serious physical injury to a person he or she knows to be *sixty (60) years of age or older* or twelve (12) years of age or younger. (Emphasis added) Currently, only victims twelve (12) years of age or younger are covered under the Class B penalty provision. [For reference, causing physical injury to a person sixty (60) years of age or older is currently prohibited under A.C.A. § 5-13-202, Battery in the second degree, Class D felony.]

Section 2 of the proposed bill amends A.C.A. § 5-13-201(c). Under the proposed bill, conduct proscribed under current subdivision (a)(2) would be increased from a Class B felony to a Class Y felony. The conduct prohibited in subdivision (a)(2) is as follows: A person commits battery in the first degree if with the purpose to seriously and permanently disfiguring another person or of destroying, amputating, or permanently disabling a member or organ of that other person’s body, the person causes such an injury to any person. Currently, a violation of A.C.A. § 5-13-201(a)(2) is a Class Y felony only if committed against a Law Enforcement Officer, but a Class B felony if otherwise committed.

Section 3 of the proposed bill amends A.C.A. § 5-26-303, Domestic battery in the first degree. The proposed bill adds subdivision (a)(7), a course of conduct by which the offense of Domestic Battery in the first degree can be committed: A person commits domestic battery in the first degree if the person knowingly causes serious physical injury to a family or household member who is four (4) years of age or younger under

<sup>1</sup> This impact assessment was prepared (2/6/2019, 2:58 p.m.) 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 Correction 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.

<sup>2</sup> Standard punishment ranges:

Class Y	10-40 years or life	Class C	3-10 years; up to \$10,000	Class A	Up to 1 year; up to \$2,500
Class A	6-30 years; up to \$15,000	Class D	0-6 years; up to \$10,000	Class B	Up to 90 days; up to \$1,000
Class B	5-20 years; up to \$15,000	Unclassified	As specified in statute	Class C	Up to 30 days; up to \$500

Misdemeanors

circumstances manifesting extreme indifference to the value of human life. The proposed penalty for this course of conduct is a Class Y felony. [For reference, knowingly causing serious physical injury to any person four (4) years of age or younger under circumstances manifesting extreme indifference to the value of human life is currently prohibited under A.C.A. § 5-13-201, Battery in the first degree, Class Y felony.]

Additionally, Section 3 of the proposed bill would increase the penalty for conduct proscribed under current subsection (a)(2) from a Class B felony to a Class Y felony. The conduct prohibited in subdivision (a)(2) is as follows: A person commits domestic battery in the first degree if with the purpose to seriously and permanently disfiguring another person or of destroying, amputating, or permanently disabling a member or organ of that other person's body, the person causes such an injury to any person. Under current law, this conduct is punishable as a Class B felony under A.C.A. § 5-26-303 (a)(3) & (b)(1), Domestic battery in the first degree, a Class A felony under A.C.A. § 5-26-303 (a)(3) & (b)(2), Domestic battery in the first degree when the victim is a pregnant woman or when a person has one or more domestic battery convictions within the last five (5) years, and a Class Y felony under A.C.A. § 5-13-201(a)(9), Battery in the first degree.

### **Impact Information**

Because the courses of conduct with increased penalties in this proposed bill are not uniformly distinguished in current charging practice, data is unavailable as to the likely number of convictions per year. Therefore, the impact of this proposed bill cannot be determined.

**A.C.A. § 5-13-201. Battery in the first degree.**

- (a) A person commits battery in the first degree if:
- (1) With the purpose of causing serious physical injury to another person, the person causes serious physical injury to any person by means of a deadly weapon;
  - (2) With the purpose of seriously and permanently disfiguring another person or of destroying, amputating, or permanently disabling a member or organ of that other person's body, the person causes such an injury to any person;
  - (3) The person causes serious physical injury to another person under circumstances manifesting extreme indifference to the value of human life;
  - (4) Acting alone or with one (1) or more other persons:
    - (A) The person commits or attempts to commit a felony; and
    - (B) In the course of and in furtherance of the felony or in immediate flight from the felony:
      - (i) The person or an accomplice causes serious physical injury to any person under circumstances manifesting extreme indifference to the value of human life; or
      - (ii) Another person who is resisting the felony or flight causes serious physical injury to any person;
  - (5) With the purpose of causing serious physical injury to an unborn child or to a woman who is pregnant with an unborn child, the person causes serious physical injury to the unborn child;
  - (6) The person knowingly causes physical injury to a pregnant woman in the commission of a felony or a Class A misdemeanor, and in so doing, causes serious physical injury to the pregnant woman's unborn child, and the unborn child is subsequently born alive;
  - (7) The person knowingly, without legal justification, causes serious physical injury to a person he or she knows to be twelve (12) years of age or younger;
  - (8) With the purpose of causing physical injury to another person, the person causes physical injury to any person by means of a firearm; or
  - (9) The person knowingly causes serious physical injury to any person four (4) years of age or younger under circumstances manifesting extreme indifference to the value of human life.
- (b) It is an affirmative defense in any prosecution under subdivision (a)(4) of this section in which the defendant was not the only participant that the defendant:
- (1) Did not commit the battery or in any way solicit, command, induce, procure, counsel, or aid the battery's commission;
  - (2) Was not armed with a deadly weapon;
  - (3) Reasonably believed that no other participant was armed with a deadly weapon; and
  - (4) Reasonably believed that no other participant intended to engage in conduct that could result in serious physical injury.
- (c)
- (1) Except as provided in subdivisions (c)(2) and (3) of this section, battery in the first degree is a Class B felony.
  - (2) Battery in the first degree is a Class Y felony under the circumstances described in subdivision (a)(9) of this section.
  - (3) Battery in the first degree is a Class Y felony if the injured person is a law enforcement officer acting in the line of duty.

HISTORY: Acts 1975, No. 280, § 1601; A.S.A. 1947, § 41-1601; Acts 1987, No. 482, § 1; 1995, No. 360, § 1; 1995, No. 1305, § 1; 2005, No. 1994, § 474; 2007, No. 622, § 1; 2007, No. 709, § 2; 2007, No. 827, § 26.

**A.C.A. § 5-26-303. Domestic battering in the first degree.**

- (a) A person commits domestic battering in the first degree if:
- (1) With the purpose of causing serious physical injury to a family or household member, the person causes serious physical injury to a family or household member by means of a deadly weapon;
  - (2) With the purpose of seriously and permanently disfiguring a family or household member or of destroying, amputating, or permanently disabling a member or organ of a family or household member's body, the person causes such an injury to a family or household member;
  - (3) The person causes serious physical injury to a family or household member under circumstances manifesting extreme indifference to the value of human life;
  - (4) The person knowingly causes serious physical injury to a family or household member he or she knows to be sixty (60) years of age or older or twelve (12) years of age or younger;
  - (5) The person:
    - (A) Commits any act of domestic battering as defined in § 5-26-304 or § 5-26-305; and
    - (B) For conduct that occurred within the ten (10) years preceding the commission of the current offense, the person has on two (2) previous occasions been convicted of any act of battery against a family or household member as defined by the laws of this state or by the equivalent laws of any other state or foreign jurisdiction; or
  - (6) With the purpose of causing physical injury to a family or household member, the person causes physical injury to a family or household member by means of a firearm.
- (b)
- (1) Domestic battering in the first degree is a Class B felony.
  - (2) However, domestic battering in the first degree is a Class A felony upon a conviction under subsection (a) of this section if:
    - (A) Committed against a woman the person knew or should have known was pregnant; or
    - (B) The person committed one (1) or more of the following offenses within five (5) years of the offense of domestic battering in the first degree:
      - (i) Domestic battering in the first degree;
      - (ii) Domestic battering in the second degree, § 5-26-304;
      - (iii) Domestic battering in the third degree, § 5-26-305; or
      - (iv) A violation of an equivalent penal law of this state or of another state or foreign jurisdiction.

HISTORY: Acts 1979, No. 396, § 1; A.S.A. 1947, § 41-1653; Acts 1995, No. 1291, § 1; 1999, No. 1317, § 2; 1999, No. 1365, § 1; 2001, No. 1553, § 8; 2003, No. 944, § 1; 2003, No. 1079, § 1; 2005, No. 1994, § 481; 2007, No. 671, § 1; 2009, No. 194, § 1; 2009, No. 748, § 16; 2011, No. 1120, § 7; 2013, No. 417, § 1; 2017, No. 301, § 1.