



*Arkansas
Sentencing
Commission*

Impact Assessment for SB305 Sponsored by Senator Leding

Subtitle CONCERNING THE OFFENSES OF AGGRAVATED ASSAULT AND AGGRAVATED ASSAULT ON A FAMILY OR HOUSEHOLD MEMBER.

Impact Summary¹ Cannot be determined.

Change from current law² Amends Arkansas Code Annotated § 5-13-204(a) to create a new course of conduct by which a person can commit the offense of Aggravated assault. Under the proposed bill, a person commits aggravated assault if, under circumstances manifesting extreme indifference to the value of human life, he or she purposely impedes or prevents the respiration of another person or the circulation of another person's blood by applying pressure on the *chest*, throat, or neck or by blocking the nose or mouth of the other person. Under the law as currently written, impeding respiration or circulation by applying pressure on the chest of another person is not considered aggravated assault. Note that there are other ways to commit the offense of aggravated assault - this impact focuses solely on the amended course of conduct. See below for a full reproduction of the law as currently written.

Amends A.C.A. § 5-26-306(a) to create a new course of conduct by which a person can commit the offense of Aggravated assault on a family or household member. Under the proposed bill, a person commits aggravated assault on a family or household member if, under circumstances manifesting extreme indifference to the value of human life, he or she purposely impedes or prevents the respiration of a family or household member or the circulation of a family or household member's blood by applying pressure on the *chest*, throat, or neck or by blocking the nose or mouth of the family or household member. Under the law as currently written, impeding respiration or circulation by applying pressure on the chest of a family or household member is not considered aggravated assault on a family or household member. Note that there are other ways to commit the offense of aggravated assault on a family or household member - this impact focuses solely on the amended course of conduct. See below for a full reproduction of the law as currently written.

Impact Information

Because this proposed bill creates a new course of conduct for committing this offense, data is unavailable as to the likely number of convictions per year. Therefore, the impact of this proposed bill cannot be determined. The following numbers are provided for informational purposes only.

¹ This impact assessment was prepared (2/18/2019, 12:22 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.

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

The Arkansas Department of Correction reports that there are currently 1,256 inmates serving a term of incarceration for a violation of A.C.A. § 5-13-204, Aggravated assault, Class D felony, as currently written. 134 of these offenders are serving a term of incarceration for which A.C.A. § 5-13-204 is the most serious offense. There are currently 403 inmates serving a term of incarceration for a violation of A.C.A. § 5-26-306, Aggravated assault on a family or household member, Class D felony, as currently written. 77 of these offenders are serving a term of incarceration for which A.C.A. § 5-26-306 is the most serious offense. Please note that this data includes all inmates serving a sentence for Aggravated assault or Aggravated assault on a family or household member and does not distinguish between the various courses of conduct contained in the law as currently written.

The Administrative Office of the Courts reports that for the three year period beginning January 1, 2015 and ending December 31, 2017, there were 1,757 convictions for a violation of A.C.A. § 5-13-204, Aggravated assault, as currently written. There were 820 convictions for a violation of A.C.A. § 5-26-306, Aggravated assault on a family or household member, as currently written. Please note that this data includes all offenders convicted of Aggravated assault or Aggravated assault on a family or household member and does not distinguish between the various courses of conduct contained in the law as currently written.

A.C.A. § 5-13-204. Aggravated assault.

(a) A person commits aggravated assault if, under circumstances manifesting extreme indifference to the value of human life, he or she purposely:

- (1) Engages in conduct that creates a substantial danger of death or serious physical injury to another person;
- (2) Displays a firearm in such a manner that creates a substantial danger of death or serious physical injury to another person; or
- (3) Impedes or prevents the respiration of another person or the circulation of another person's blood by applying pressure on the throat or neck or by blocking the nose or mouth of the other person.

(b) Aggravated assault is a Class D felony.

(c) The provisions of this section do not apply to:

- (1) A law enforcement officer acting within the scope of his or her duty; or
- (2) A person acting in self-defense or the defense of a third party.

HISTORY: Acts 1975, No. 280, § 1604; A.S.A. 1947, § 41-1604; Acts 2003, No. 1113, § 1; 2009, No. 332, § 1.

A.C.A. § 5-26-306. Aggravated assault on a family or household member.

(a) A person commits aggravated assault on a family or household member if, under circumstances manifesting extreme indifference to the value of human life, the person purposely:

- (1) Engages in conduct that creates a substantial danger of death or serious physical injury to a family or household member;
- (2) Displays a firearm in a manner that creates a substantial danger of death or serious physical injury to a family or household member; or
- (3) Impedes or prevents the respiration of a family or household member or the circulation of a family or household member's blood by applying pressure on the throat or neck or by blocking the nose or mouth of a family or household member.

(b) Aggravated assault on a family or household member is a Class D felony.

HISTORY: Acts 1979, No. 396, § 4; A.S.A. 1947, § 41-1656; Acts 1995, No. 1291, § 4; 2013, No. 418, § 1.