



*Arkansas
Sentencing
Commission*

**Impact Assessment for SB569
Sponsored by Senator Garner**

Subtitle CONCERNING THE OFFENSE OF BATTERY IN THE THIRD DEGREE; AND CONCERNING BATTERY AGAINST A PREGNANT WOMAN.

Impact Summary¹ Cannot be determined.

Change from current law² Amends Arkansas Code Annotated § 5-13-203, Battery in the third degree, to increase the penalty from a Class A misdemeanor to a Class D felony when the offense is committed against a woman that the person knew or should have known was pregnant.

The proposed bill does not amend the conduct provisions for battery in the third degree. Under current law, and the proposed bill, a person commits battery in the third degree if: (1) with the purpose of causing physical injury to another person, the person causes physical injury to any person; (2) the person recklessly causes physical injury to another person; (3) the person negligently causes physical injury to another person by means of a deadly weapon; or (4) the person purposely causes stupor, unconsciousness, or physical or mental impairment or injury to another person by administering to the other person, without the person’s consent, any drug or other substance.

Impact Information

The proposed bill increases the penalty when the offense of battery in the third degree is committed against certain victims. Because data does not exist as to the number of offenders who commit the offense of battery in the third degree against a woman that the offender knew or should have known was pregnant, the impact cannot be determined. The following data is provided for informational purposes only.

The Administrative Office of the Courts (AOC) reports that for the three (3) year period beginning January 1, 2015 and ending December 31, 2017, there were 1,256 convictions for a violation of A.C.A. § 5-13-203, Battery in the third degree, Class A misdemeanor, as currently written. This data includes all convictions of battery in the third degree and does not distinguish those in which the offender knew or should have known that the victim was pregnant.

¹ This impact assessment was prepared (3/18/2019, 1:53 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 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

Currently, A.C.A. § 5-26-305, Domestic battering in the third degree, contains a similarly increased penalty when the offender knew or should have known his or her victim was pregnant. [See attached for complete reprint of code provision.] AOC reports that for the same three (3) year period beginning January 1, 2015, and ending December 31, 2017, there were 1,365 convictions for a violation of A.C.A. § 5-26-305 (b)(2), Domestic battering in the third degree, Class D felony. Please note that these convictions include all Class D felony convictions for A.C.A. § 5-26-305, not just those which constitute Class D felonies because the offender knew or should have known that the victim was pregnant.

The Arkansas Department of Correction reports that there are currently 112 inmates serving a term of incarceration for A.C.A § 5-26-305(b)(2), Domestic battering in the third degree, Class D felony, as currently written. ADC reports thirty-four (34) inmates serving a term of incarceration for which A.C.A § 5-26-305(b)(2) is the primary offense.

A.C.A. § 5-26-305. Domestic battering in the third degree.

- (a) A person commits domestic battering in the third degree if:
- (1) With the purpose of causing physical injury to a family or household member, the person causes physical injury to a family or household member;
 - (2) The person recklessly causes physical injury to a family or household member;
 - (3) The person negligently causes physical injury to a family or household member by means of a deadly weapon; or
 - (4) The person purposely causes stupor, unconsciousness, or physical or mental impairment or injury to a family or household member by administering to the family or household member, without the family or household member's consent, any drug or other substance.
- (b)
- (1) Domestic battering in the third degree is a Class A misdemeanor.
 - (2) However, domestic battering in the third degree is a Class D felony if:
 - (A) *Committed against a woman the person knew or should have known was pregnant;*
 - (B) The person committed one (1) or more of the following offenses within five (5) years of the offense of domestic battering in the third degree:
 - (i) Domestic battering in the first degree, § 5-26-303;
 - (ii) Domestic battering in the second degree, § 5-26-304;
 - (iii) Domestic battering in the third degree;
 - (iv) Aggravated assault on a family or household member, § 5-26-306; or
 - (v) A violation of an equivalent penal law of this state or of another state or foreign jurisdiction; or
 - (C) The person committed two (2) or more offenses of battery against a family or household member as defined by a law of this state or by an equivalent law of any other state or foreign jurisdiction within ten (10) years of the offense of domestic battering in the third degree.

History: Acts 1979, No. 396, § 3; A.S.A. 1947, § 41-1655; Acts 1995, No. 1291, § 3; 1999, No. 1365, § 3; 2001, No. 1553, § 10; 2003, No. 944, § 3; 2003, No. 1079, § 1; 2005, No. 1994, § 481; 2009, No. 333, § 1; 2013, No. 417, § 3; 2015, No. 1155, § 5.