



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for HB1521 Sponsored by Representative Wing

Subtitle TO CREATE THE CRIMINAL OFFENSE OF DISARMING AN OFFICER

Impact Summary¹ Cannot be determined.

Change from Current Law² Amends Arkansas Code Title 5, Chapter 54, Subchapter 1, to add an additional section, § 5-54-134, Disarming an officer. Under the proposed bill, a person commits the offense of Disarming an officer if the person purposely uses physical force to take from a law enforcement officer, the law enforcement officer's firearm, nightstick, taser stun gun, personal protection chemical dispensing device, or any other protective gear or weapon carried by the law enforcement officer that could be used to cause physical injury to another person. Under the proposed bill, the penalty for Disarming an officer is a Class C felony.

Impact Information The proposed bill creates a new criminal offense for which the likely number of occurrences is unknown. Current law does not include a course of conduct specific to the use of physical force to disarm a law enforcement officer. For this reason, the projected impact of the proposed bill cannot be determined.

Under current law, certain occurrences of A.C.A. § 5-13-202(a)(4)(A), Battery in the second degree, and § 5-13-213(a)(2), Aggravated assault against a first responder, criminalize physical injury to a law enforcement officer. [See attached for complete reproduction of A.C.A. § 5-13-202 and A.C.A. 5-13-213].

The following data on provisions criminalizing similar conduct is provided for informational purposes only. The Administrative Office of the Courts (AOC) reports that for the three (3) year period beginning on 1/1/2020 and ending on 12/31/2022, there were 426 felony convictions for A.C.A. § 5-13-202(a)(4), Battery in the second degree, and zero (0) convictions for A.C.A. § 5-13-213(a)(2), Aggravated assault against a first responder. The Division of Correction (ADC) reports that as of December 2, 2022, there are currently 208 offenders serving a term of incarceration for a violation of A.C.A. § 5-13-202(a)(4), Battery in the second degree. A.C.A. § 5-13-202(a)(4), Battery in the second degree, includes specified victims and is not exclusively law enforcement officers.

¹ This impact assessment was prepared 3/9/2023 6:25 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. § 5-13-202. Battery in the second degree.

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

(1) With the purpose of causing physical injury to another person, the person causes serious physical injury to another person;

(2) With the purpose of causing physical injury to another person, the person causes physical injury to another person by means of a deadly weapon other than a firearm;

(3) The person recklessly causes serious physical injury to another person:

(A) By means of a deadly weapon;

(B) While operating or in actual physical control of a motor vehicle or motorboat if at the time:

(i) The person is intoxicated; or

(ii) The alcohol concentration in the person's breath or blood is eight-hundredths (0.08) or more based upon the definition of alcohol concentration in § 5-65-204; or

(C) Who is four (4) years of age or younger; or

(4) The person knowingly, without legal justification, causes physical injury to or incapacitates a person he or she knows to be:

(A)

(i) A law enforcement officer, firefighter, code enforcement officer, or employee of a correctional facility while the law enforcement officer, firefighter, code enforcement officer, or employee of a correctional facility is acting in the line of duty.

(ii) As used in this subdivision (a)(4)(A):

(a)

(1) "Code enforcement officer" means an individual charged with the duty of enforcing a municipal code, municipal ordinance, or municipal regulation as defined by a municipal code, municipal ordinance, or municipal regulation.

(2) "Code enforcement officer" includes a municipal animal control officer; and

(b) "Employee of a correctional facility" includes a person working under a professional services contract with the Division of Correction, the Division of Community Correction, or the Division of Youth Services;

(B) A teacher or other school employee while acting in the course of employment;

(C) An individual sixty (60) years of age or older or twelve (12) years of age or younger;

(D) An officer or employee of the state while the officer or employee of the state is acting in the performance of his or her lawful duty;

(E) While performing medical treatment or emergency medical services or while in the course of other employment relating to his or her medical training:

(i) A physician;

(ii) A person licensed as emergency medical services personnel, as defined in § 20-13-202;

(iii) A licensed or certified healthcare professional; or

(iv) Any other healthcare provider; or

(F) An individual who is incompetent, as defined in § 5-25-101.

(b)

(1) Battery in the second degree under subdivision (a)(3)(B) of this section is a Class C felony.

(2) Otherwise, battery in the second degree is a Class D felony.

(c) As used in this section, "motorboat" means the same as defined in § 5-65-102.

A.C.A. § 5-13-213. Aggravated assault against first responder.

(a) A person commits aggravated assault against a first responder if:

(1) The person knowingly causes physical contact with a first responder by spitting, throwing, or otherwise transferring bodily fluids, pathogens, or human waste onto the person of the first responder or by throwing an object such as a brick, rock, bottle, projectile, firework, chemical agent, or explosive device that a reasonable person knows or should know could cause physical injury if the object struck the first responder; and

(2) The physical contact:

(A) Results in serious physical injury to the first responder;

(B) Involves the use of a deadly weapon;

(C) Involves the display of a firearm in such a manner that the display of the firearm creates a substantial danger of death or serious physical injury to another person; or

(D) Involves strangulation or attempted strangulation.

(b) Aggravated assault against a first responder is a Class C felony with a mandatory fine of ten thousand dollars (\$10,000) and a mandatory minimum sentence of at least ninety (90) days' imprisonment for which the defendant is required to serve at least ninety (90) days before being released from imprisonment.