

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S3/20/07

A Bill

SENATE BILL 264

5 By: Senator Wilkins
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For An Act To Be Entitled

9 AN ACT TO ENHANCE THE PENALTIES FOR CERTAIN
10 OFFENSES UNDER CERTAIN CIRCUMSTANCES; AND FOR
11 OTHER PURPOSES.
12

Subtitle

14 TO ENHANCE THE PENALTIES FOR CERTAIN
15 OFFENSES UNDER CERTAIN CIRCUMSTANCES.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code § 5-38-203 is amended to read as follows:
21 5-38-203. Criminal mischief in the first degree.

22 (a) A person commits the offense of criminal mischief in the first
23 degree if he or she purposely and without legal justification destroys or
24 causes damage to any:

25 (1) Property of another; or

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

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

29 (1) Class C felony if:

30 (A) ~~the~~ The amount of actual damage is five hundred
31 dollars (\$500) or more; or

32 (B) The evidence demonstrates beyond a reasonable doubt
33 that the offense was committed against the victim because of a prejudice
34 against the victim and that the prejudice was based on the victim's behavior
35 or characteristics that could be identified by the perpetrator of the offense
36 at the time the offense was committed; or



1 (2) Class A misdemeanor if otherwise committed.

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

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

6 (A) The failure to obtain the survey as required by § 15-
7 32-101; or

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

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

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

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17 SECTION 2. Arkansas Code § 5-39-203 is amended to read as follows:
18 5-39-203. Criminal trespass.

19 (a) A person commits criminal trespass if he or she purposely enters
20 or remains unlawfully in or upon:

21 (1) A vehicle; or

22 (2) The premises of another person.

23 (b) Criminal trespass is a:

24 (1) Class B misdemeanor if:

25 (A) ~~the~~ The vehicle or premises involved is an occupiable
26 structure; or

27 (B) The evidence demonstrates beyond a reasonable doubt
28 that the offense was committed against the victim because of a prejudice
29 against the victim and that the prejudice was based on the victim's behavior
30 or characteristics that could be identified by the perpetrator of the offense
31 at the time the offense was committed; or

32 (2) Class C misdemeanor if otherwise committed.

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34 SECTION 3. Arkansas Code § 5-71-208 is amended to read as follows:
35 5-71-208. Harassment.

36 (a) A person commits the offense of harassment if, with purpose to

1 harass, annoy, or alarm another person, without good cause, he or she:

2 (1) Strikes, shoves, kicks, or otherwise touches a person,
3 subjects that person to offensive physical contact or attempts or threatens
4 to do so;

5 (2) In a public place, directs obscene language or makes an
6 obscene gesture to or at another person in a manner likely to provoke a
7 violent or disorderly response;

8 (3) Follows a person in or about a public place;

9 (4) In a public place repeatedly insults, taunts, or challenges
10 another person in a manner likely to provoke a violent or disorderly
11 response;

12 (5) Engages in conduct or repeatedly commits an act that alarms
13 or seriously annoys another person and that serves no legitimate purpose; or

14 (6) Places a person under surveillance by remaining present
15 outside that person's school, place of employment, vehicle, other place
16 occupied by that person, or residence, other than the residence of the
17 defendant, for no purpose other than to harass, alarm, or annoy.

18 (b)(1) Harassment Except as provided in subdivision (b)(2) of this
19 section, harassment is a Class A misdemeanor.

20 (2) Harassment is a Class D felony if the evidence demonstrates
21 beyond a reasonable doubt that the offense was committed against the victim
22 because of a prejudice against the victim and that the prejudice was based on
23 the victim's behavior or characteristics that could be identified by the
24 perpetrator of the offense at the time the offense was committed.

25 (c) It is an affirmative defense to prosecution under this section if
26 the actor is a law enforcement officer, licensed private investigator,
27 attorney, process server, licensed bail bondsman, or a store detective acting
28 within the reasonable scope of his or her duty while conducting surveillance
29 on an official work assignment.

30 (d)(1) Upon pretrial release of the defendant, a judicial officer
31 shall enter a no contact order in writing consistent with Rules 9.3 and 9.4
32 of the Arkansas Rules of Criminal Procedure and shall give notice to the
33 defendant of penalties contained in Rule 9.5 of the Arkansas Rules of
34 Criminal Procedure.

35 (2) This no contact order remains in effect during the pendency
36 of any appeal of a conviction under this section.

1 (3) The judicial officer or prosecuting attorney shall provide a
2 copy of this no contact order to the victim and arresting agency without
3 unnecessary delay.

4 (e) If the judicial officer has reason to believe that mental disease
5 or defect of the defendant will or has become an issue in the cause, the
6 judicial officer shall enter such orders as are consistent with § 5-2-305.

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8 SECTION 4. Arkansas Code § 5-71-209 is amended to read as follows:
9 5-71-209. Harassing communications.

10 (a) A person commits the offense of harassing communications if, with
11 the purpose to harass, annoy, or alarm another person, the person:

12 (1) Communicates with a person, anonymously or otherwise, by
13 telephone, telegraph, mail, or any other form of written communication, in a
14 manner likely to harass, annoy, or cause alarm;

15 (2) Makes a telephone call or causes a telephone to ring
16 repeatedly, with no purpose of legitimate communication, regardless of
17 whether a conversation ensues; or

18 (3) Knowingly permits any telephone under his or her control to
19 be used for any purpose prohibited by this section.

20 (b) An offense involving use of a telephone may be prosecuted in the
21 county where the defendant was located when he or she used a telephone, or in
22 the county where the telephone made to ring by the defendant was located.

23 (c)(1) ~~Harassing~~ Except as provided in subdivision (c)(2) of this
24 section, harassing communications is a Class A misdemeanor.

25 (2) Harassing communications is a Class D felony if the evidence
26 demonstrates beyond a reasonable doubt that the offense was committed against
27 the victim because of a prejudice against the victim and that the prejudice
28 was based on the victim's behavior or characteristics that could be
29 identified by the perpetrator of the offense at the time the offense was
30 committed.

31 (d)(1) Upon the pretrial release of the defendant, a judicial officer
32 shall enter a no contact order in writing consistent with Rules 9.3 and 9.4
33 of the Arkansas Rules of Criminal Procedure and shall give notice to the
34 defendant of penalties contained in Rule 9.5 of the Arkansas Rules of
35 Criminal Procedure.

36 (2) This no contact order remains in effect during the pendency

1 of any appeal of a conviction under this section.

2 (3) The judicial officer or prosecuting attorney shall provide a
3 copy of this no contact order to the victim and arresting agency without
4 unnecessary delay.

5 (e) If the judicial officer has reason to believe that mental disease
6 or defect of the defendant will or has become an issue in the cause, the
7 judicial officer shall enter such orders as are consistent with § 5-2-305.

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/s/ Wilkins

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