

State of Arkansas  
87th General Assembly  
Regular Session, 2009

# A Bill

HOUSE BILL 2025

By: Representative Harrelson

## For An Act To Be Entitled

AN ACT TO ADD AGGRAVATED RESIDENTIAL BURGLARY TO  
THE LIST OF SERIOUS FELONIES INVOLVING VIOLENCE  
IN THE HABITUAL OFFENDER STATUTE AND AS AN  
UNDERLYING FELONY IN THE CAPITAL MURDER STATUTE;  
AND FOR OTHER PURPOSES.

## Subtitle

TO ADD AGGRAVATED RESIDENTIAL BURGLARY  
TO THE LIST OF SERIOUS FELONIES  
INVOLVING VIOLENCE IN THE HABITUAL  
OFFENDER STATUTE AND AS AN UNDERLYING  
FELONY IN THE CAPITAL MURDER STATUTE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-4-501(c)(2), concerning the list of  
serious violent felonies in the habitual offender statute, is amended to read  
as follows:

(2) As used in this subsection, "serious felony involving  
violence" means:

(A) Any of the following felonies:

- (i) Murder in the first degree, § 5-10-102;
- (ii) Murder in the second degree, § 5-10-103;
- (iii) Kidnapping, § 5-11-102, involving an activity  
making it a Class Y felony;
- (iv) Aggravated robbery, § 5-12-103;
- (v) Terroristic act, § 5-13-310, involving an



activity making it a Class Y felony;

(vi) Rape, § 5-14-103;

(vii) Sexual assault in the first degree, § 5-14-

124; ~~or~~

(viii) Causing a catastrophe, § 5-38-202(a); or

(ix) Aggravated residential burglary, § 5-39-204; or

SECTION 2. Arkansas Code § 5-4-501(d)(2), concerning the list of felonies involving violence in the habitual offender statute, is amended to read as follows:

(2) As used in this subsection, "felony involving violence" means:

(A) Any of the following felonies:

(i) Murder in the first degree, § 5-10-102;

(ii) Murder in the second degree, § 5-10-103;

(iii) Kidnapping, § 5-11-102;

(iv) Aggravated robbery, § 5-12-103;

(v) Rape, § 5-14-103;

(vi) Battery in the first degree, § 5-13-201;

(vii) Terroristic act, § 5-13-310;

(viii) Sexual assault in the first degree, § 5-14-

124;

(ix) Sexual assault in the second degree, § 5-14-

125;

(x) Domestic battering in the first degree, § 5-26-

303;

(xi) Aggravated residential burglary, § 5-39-204;

~~(xi)~~(xii) Unlawful discharge of a firearm from a vehicle, § 5-74-107;

~~(xii)~~(xiii) Criminal use of prohibited weapons, § 5-73-104, involving an activity making it a Class B felony; or

~~(xiii)~~(xiv) A felony attempt, solicitation, or conspiracy to commit:

(a) Capital murder, § 5-10-101;

(b) Murder in the first degree, § 5-10-102;

(c) Murder in the second degree, § 5-10-103;

- (d) Kidnapping, § 5-11-102;
- (e) Aggravated robbery, § 5-12-103;
- (f) Rape, § 5-14-103;
- (g) Battery in the first degree, § 5-13-201;
- or
- (h) Domestic battering in the first degree, § 5-26-303; or
- (i) Aggravated residential burglary, § 5-39-204; or

(B) A conviction of a comparable felony involving violence from another jurisdiction.

SECTION 3. Arkansas Code § 5-10-101(a)(1), concerning underlying felonies in the capital murder statute, is amended to read as follows:

(a) A person commits capital murder if:

(1) Acting alone or with one (1) or more other persons:

(A) The person commits or attempts to commit:

- (i) Terrorism, as defined in § 5-54-205;
- (ii) Rape, § 5-14-103;
- (iii) Kidnapping, § 5-11-102;
- (iv) Vehicular piracy, § 5-11-105;
- (v) Robbery, § 5-12-102;
- (vi) Aggravated robbery, § 5-12-103;
- (vii) Residential burglary, § 5-39-201(a);
- (viii) Commercial burglary, § 5-39-201(b);
- (ix) Aggravated residential burglary, § 5-39-204;

~~(ix)~~(x) A felony violation of the Uniform Controlled Substances Act, §§ 5-64-101 – 5-64-508, involving an actual delivery of a controlled substance; or

~~(x)~~(xi) First degree escape, § 5-54-110; and

(B) In the course of and in furtherance of the felony or in immediate flight from the felony, the person or an accomplice causes the death of ~~any~~ a person under circumstances manifesting extreme indifference to the value of human life;