

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

# A Bill

HOUSE BILL 1321

5 By: Representative Gazaway  
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## For An Act To Be Entitled

8 AN ACT CONCERNING OFFENSES COMMITTED AGAINST CRITICAL  
9 INFRASTRUCTURE; AND FOR OTHER PURPOSES.  
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### Subtitle

11 CONCERNING OFFENSES COMMITTED AGAINST  
12 CRITICAL INFRASTRUCTURE.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code § 5-38-101, concerning definitions used with  
20 respect to damage or property destruction offenses, is amended to add  
21 additional subdivisions to read as follows:  
22

23 (6) "Critical infrastructure" means one (1) of the following  
24 facilities that is completely enclosed by a fence or other physical barrier  
25 that is designed to exclude persons without permission to be in the facility  
26 or clearly marked with signs that are reasonably likely to be seen by another  
27 person that indicate entry is forbidden without facility authorization:

28 (A) An electric generating facility, substation, switching  
29 station, electrical control center, or electric transmission and distribution  
30 lines;

31 (B) A chemical or rubber manufacturing facility;

32 (C) A water intake structure, water treatment facility,  
33 wastewater facility, drainage facility, water management facility, or any  
34 similar water or sewage treatment system and the water or sewage treatment  
35 system's piping;

36 (D) A food processing or manufacturing facility; or

(E) A natural gas company facility or interstate natural



- 1 gas pipeline, including without limitation:
- 2 (i) A pipeline interconnection;
- 3 (ii) A natural gas compressor station and associated
- 4 facility;
- 5 (iii) A city gate or town border station;
- 6 (iv) A metering station;
- 7 (v) Aboveground piping;
- 8 (vi) A regulator station;
- 9 (vii) A valve site;
- 10 (viii) A delivery station;
- 11 (ix) Fabricated assembly and any part of a natural
- 12 gas storage facility involved in the gathering, storage, transmission, or
- 13 distribution of gas;
- 14 (x) Wireline or wireless telecommunications
- 15 infrastructure, including telecommunications towers, telephone poles,
- 16 telephone lines, and fiber optic lines;
- 17 (xi) A port, trucking terminal, or other freight
- 18 transportation facility;
- 19 (xii) A gas processing plant, including a gas
- 20 processing plant used in the processing, treatment, or fractionation of
- 21 natural gas or natural gas liquids;
- 22 (xiii) A crude oil or refined products storage and
- 23 distribution facility, including without limitation:
- 24 (a) A valve site;
- 25 (b) A pipeline interconnection;
- 26 (c) A pump station;
- 27 (d) A metering station;
- 28 (e) A belowground or aboveground pipeline or
- 29 piping; and
- 30 (f) A truck loading or off-loading facility;
- 31 (g) An aboveground portion of a well, well
- 32 pad, or production operation;
- 33 (xiv) A laydown area or construction site for pipe
- 34 and other equipment intended for use on an interstate or intrastate natural
- 35 gas or crude oil pipeline;
- 36 (xv) A portion of an oil, gas, hazardous liquid or

1 chemical pipeline, tank, or other storage facility that is aboveground;

2 (xvi) A video service network and broadband  
 3 infrastructure, including without limitation:

4 (a) Associated buildings and facilities;

5 (b) Video service headends, towers, utility  
 6 poles, and utility lines; and

7 (c) Fiber optic lines;

8 (xvii) A mining operation, including any processing  
 9 equipment, batching operation, or support facility for that mining operation;

10 (xviii) A facility installed in a public right-of-  
 11 way on a utility pole or in a conduit that is aboveground and concerns a  
 12 video service network or broadband or wireless telecommunications  
 13 infrastructure;

14 (xix) Railroad property; and

15 (xx) Property owned by and considered an electronic  
 16 asset of any of the following:

17 (a) An electric light company that is a public  
 18 utility;

19 (b) An electric cooperative;

20 (c) A municipal electric utility;

21 (d) A natural gas company that is a public  
 22 utility;

23 (e) A telephone company that is a public  
 24 utility; or

25 (f) A video service provider, including a  
 26 cable operator; and

27 (7) "Electronic asset" means:

28 (A) The hardware, software, and data of a programmable  
 29 electronic device;

30 (B) All communications, operations, and customer data  
 31 networks; and

32 (C) The contents of customer data networks.

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 34 SECTION 2. Arkansas Code § 5-38-203(a) and (b), concerning the offense  
 35 of criminal mischief in the first degree, are amended to read as follows:

36 (a) A person commits the offense of criminal mischief in the first

1 degree if he or she purposely and without legal justification destroys or  
 2 causes damage to any:

3 (1) Property of another; ~~or~~

4 (2) Property, whether his or her own or property of another, for  
 5 the purpose of collecting any insurance for the property; or

6 (3) Critical infrastructure.

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

8 (1) Class A misdemeanor if the amount of actual damage is one  
 9 thousand dollars (\$1,000) or less;

10 (2) Class D felony if the amount of actual damage is more than  
 11 one thousand dollars (\$1,000) but five thousand dollars (\$5,000) or less;

12 (3) Class C felony if the amount of actual damage is more than  
 13 five thousand dollars (\$5,000) but less than twenty-five thousand dollars  
 14 (\$25,000); or

15 (4) Class B felony if:

16 (A) the The amount of actual damage is twenty-five  
 17 thousand dollars (\$25,000) or more; or

18 (B) The property is critical infrastructure.

19  
 20 SECTION 3. Arkansas Code § 5-39-101, concerning definitions used with  
 21 respect to burglary, trespass, and other intrusion offenses, is amended to  
 22 add an additional subdivision to read as follows:

23 (10) "Critical infrastructure" means the same as defined in § 5-  
 24 38-101.

25  
 26 SECTION 4. Arkansas Code § 5-39-203(a) and (b), concerning the offense  
 27 of criminal trespass, are amended to read as follows:

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

30 (1) A vehicle of another person; ~~or~~

31 (2) The premises owned or leased by another person; or

32 (3) Critical infrastructure.

33 (b) Criminal trespass is a:

34 (1) Class D felony if:

35 (A) the The person has two (2) or more convictions for a  
 36 Class A misdemeanor violation of this section or § 5-39-305; or

1                   (B) The premises is critical infrastructure;  
 2           (2) Class A misdemeanor if:  
 3                   (A) At the time of the criminal trespass, the person is in  
 4 possession of one (1) or more of the following:  
 5                           (i) A killing device;  
 6                           (ii) A harvesting device;  
 7                           (iii) A device primarily used for the location and  
 8 unearthing of buried or submerged artifacts; or  
 9                           (iv) A tool designed to gain entry into a structure  
 10 by breaking a lock or breaking through a fence, including without limitation  
 11 a boltcutter;  
 12                   (B) The person is on premises containing a commercial  
 13 fishing or fish breeding operation and at that time is in possession of a  
 14 fishing pole or net designed to capture fish; or  
 15                   (C) The person has a prior conviction for a violation of  
 16 this section;  
 17           (3) Class B misdemeanor if:  
 18                   (A) The vehicle or premises involved is an occupiable  
 19 structure; or  
 20                   (B) The conduct involves the removal of a posted sign, a  
 21 fence, or a portion of a fence as defined in § 2-39-102; or  
 22           (4) Class C misdemeanor if otherwise committed.  
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 24           SECTION 5. Arkansas Code § 5-39-305(a) and (b), concerning the offense  
 25 of criminal trespass on premises located in an unincorporated area, are  
 26 amended to read as follows:  
 27           (a)(1) A person shall not purposely enter without written permission  
 28 of the owner or lessee upon another person's premises located outside the  
 29 boundary of any city or town if those premises are ~~either~~:  
 30                   (A) Lawfully posted;  
 31                   (B) Crop land or timber land; ~~or~~  
 32                   (C) Enclosed with a fence sufficient under § 2-39-101 et  
 33 seq.; or  
 34                   (D) Critical infrastructure.  
 35           (2) The posting of premises is not a requirement under this  
 36 section.

1 (b) Criminal trespass on premises located in an unincorporated area is  
 2 a:

3 (1) Class D felony if:

4 (A) ~~the~~ The person has two (2) or more convictions for a  
 5 Class A misdemeanor violation of this section or § 5-39-203; or

6 (B) The premises is critical infrastructure;

7 (2) Class A misdemeanor if:

8 (A) At the time of the criminal trespass on premises  
 9 located in an unincorporated area, the person is in possession of one (1) or  
 10 more of the following:

11 (i) A killing device;

12 (ii) A harvesting device;

13 (iii) A device primarily used for the location and  
 14 unearthing of buried or submerged artifacts; or

15 (iv) A tool designed to gain entry into a structure  
 16 by breaking a lock or breaking through a fence, including without limitation  
 17 a boltcutter;

18 (B) The person is on premises containing a commercial  
 19 fishing or fish breeding operation and at that time is in possession of a  
 20 fishing pole or net designed to capture fish; or

21 (C) The person has a prior conviction for a violation of  
 22 this section;

23 (3) Class B misdemeanor if:

24 (A) The premises involved is an occupiable structure; or

25 (B) The conduct involves the removal of a posted sign, a  
 26 fence, or a portion of a fence as defined in § 2-39-102; or

27 (4) Violation with a fine not to exceed one hundred dollars  
 28 (\$100) if otherwise committed.

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