

Hall of the House of Representatives

93rd General Assembly - Regular Session, 2021
Amendment Form

Subtitle of House Bill No. 1508

CONCERNING RIOT OFFENSES AND PUBLIC DEMONSTRATION OFFENSES; CONCERNING OFFENSES
COMMITTED AGAINST FIRST RESPONDERS; CONCERNING PUBLIC AND PRIVATE PROPERTY
OFFENSES; AND CONCERNING PROCEDURES UPON ARREST.

Amendment No. 3 to House Bill 1508

Amend House Bill No. 1508 as engrossed H3/9/21 (version: 03/09/2021 01:05:04 PM):

Add Representatives Bryant, Watson as cosponsors of the bill

AND

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code Title 5, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

5-13-101. Definition.

As used in this chapter, "first responder" means a law enforcement officer, firefighter, emergency medical provider, or emergency management official.

SECTION 2. Arkansas Code § 5-13-203 is amended to read as follows:
5-13-203. Battery in the third degree.

(a) 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 other person's consent, any drug or other substance; or

(5) The person knowingly causes physical contact with a first responder that a reasonable person would regard as extremely offensive or provocative, including without limitation spitting, throwing, or otherwise transferring bodily fluids, pathogens, or human waste onto the person of a first responder.



(b)(1) Battery in the third degree under subdivisions (a)(1)-(4) of this section is a Class A misdemeanor.

(2) Battery in the third degree under subdivision (a)(5) of this section is a:

(A) Class D felony if the defendant resides in another state and traveled to this state with the purpose to commit the offense; or

(B) Class A misdemeanor with a mandatory fine of two thousand five hundred dollars (\$2,500) and a mandatory minimum sentence of at least thirty (30) days of imprisonment for which the defendant is required to serve at least thirty (30) days before being released from imprisonment.

SECTION 3. Arkansas Code Title 5, Chapter 13, Subchapter 2, is amended to add an additional section to read as follows:

5-13-212. 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:

(A) That a reasonable person would regard as extremely offensive or provocative, including without limitation spitting, throwing, or otherwise transferring bodily fluids, pathogens, or human waste onto the person of a first responder; or

(B) 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;

(2) At the time of the physical contact, the first responder is discharging or attempting to discharge his or her official duties; and

(3) The physical contact:

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

(B) Results in the death of the first responder;

(C) Involves the use or display of a deadly weapon; 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.

SECTION 4. Arkansas Code § 5-38-203 is amended to read as follows:
5-38-203. Criminal mischief in the first degree.

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

(1) Property of another person; or

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

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

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

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

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

(4) Class B felony if the amount of actual damage is twenty-five thousand dollars (\$25,000) or more.

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

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

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

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

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

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

(d) A person convicted of a felony offense under this section is subject to an enhanced sentence of an additional term of imprisonment of five (5) years at the discretion of the court if the finder of fact finds that the damage to property involved the removal of nonferrous metal, as it is defined in § 17-44-101.

(e) If the property destroyed or damaged under this section was a residential mailbox or other container that the defendant knew or reasonably should have known was used for the receipt or deposit of United States mail or if the property was damaged by painting or other permanent application of graffiti, the court shall include as part of the sentence:

(1) An order of restitution for property damage or loss incurred as a result of the offense; and

(2) An additional punishment of at least twenty-five (25) hours of community service.

SECTION 5. Arkansas Code § 5-38-204 is amended to read as follows:
5-38-204. Criminal mischief in the second degree.

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

(1) Recklessly destroys or damages any property of another person; or

(2) Purposely tampers with any property of another person and by the tampering causes substantial inconvenience to the owner or another person.

(b) Criminal mischief in the second degree is a:

(1) Class A misdemeanor if the amount of actual damage is one thousand dollars (\$1,000) or more but less than five thousand dollars (\$5,000);

(2) Class D felony if the amount of actual damage is five thousand dollars (\$5,000) or more; or

(3) Class B misdemeanor if otherwise committed.

(c) A person convicted of a felony offense under this section is subject to an enhanced sentence of an additional term of imprisonment of five (5) years at the discretion of the court if the finder of fact finds that the damage to property involved the removal of nonferrous metal, as it is defined in § 17-44-101.

(d) If the property destroyed or damaged under this section was a residential mailbox or other container that the defendant knew or reasonably should have known was used for the receipt or deposit of United States mail or if the property was damaged by painting or other permanent application of graffiti, the court shall include as part of the sentence:

(1) An order of restitution for property damage or loss incurred as a result of the offense; and

(2) An additional punishment of at least twenty-five (25) hours of community service.

SECTION 6. Arkansas Code Title 5, Chapter 54, Subchapter 1, is amended to add an additional section to read as follows:

5-54-123. Unlawful possession of state property.

(a) A person may not knowingly take possession, keep possession, or otherwise occupy or continue to maintain his or her presence on or in the buildings and grounds of any institution owned and operated by the State of Arkansas, whether the institution is enclosed or unenclosed, after he or she has been notified by a security officer or other authorized employee of the institution to leave.

(b) A person violating this section upon conviction is guilty of an unclassified misdemeanor and shall be sentenced to a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisonment for a period not to exceed six (6) months, or both fine and imprisonment.

SECTION 7. Arkansas Code § 5-54-201(1)(F), concerning the definition of "act of terrorism", is amended to read as follows:

(F) Any act that causes substantial damage to or destruction of:

(i) Any hospital; or
(ii) Any building, ~~or~~ facility, or monument used, owned, or maintained by:

(a) The United States Government;
(b) State government;
(c) Any unit of local government;
(d) A national defense contractor;
(e) A public utility; or
(f) A manufacturer of chemical or biological products used in or in connection with agricultural production or the storage or processing of agricultural products or the preparation of agricultural products for food or food products intended for resale or for feed for livestock; or

SECTION 8. Arkansas Code § 5-71-201 is amended to read as follows:
5-71-201. Riot.

(a) A person commits the offense of riot if, with two (2) or more other persons, he or she knowingly engages in tumultuous or violent conduct that creates a substantial risk of:

- (1) Causing public alarm;
- (2) Disrupting the performance of a governmental function; or
- (3) Damaging or injuring property or a person.

(b)(1) Riot is a:

(A) Class D felony if the defendant resides in another state and traveled to this state with the purpose to commit the offense; or

(B) Class A misdemeanor if otherwise committed.

(2) A person convicted of riot shall be sentenced to a minimum of thirty (30) days of imprisonment for which the defendant is required to serve at least thirty (30) days before being released from imprisonment and shall be ordered to pay restitution for any injury, damage, or loss incurred as a result of the offense.

SECTION 9. Arkansas Code § 5-71-202 is amended to read as follows:

5-71-202. Aggravated riot.

(a) A person commits the offense of aggravated riot if he or she commits the offense of riot when:

- (1) The person knowingly possesses a deadly weapon; or
- (2) The person knows that another person with whom he or she is acting possesses a deadly weapon.

(b)(1) Aggravated riot is a Class D felony.

(2) A person convicted of aggravated riot shall be sentenced to a minimum of forty-five (45) days' imprisonment and shall be ordered to pay restitution for any injury, damage, or loss incurred as a result of the offense.

SECTION 10. Arkansas Code § 5-71-203 is amended to read as follows:

5-71-203. Inciting riot.

(a) A person commits the offense of inciting riot if he or she knowingly:

(1) By speech or conduct urges others to participate in a riot under circumstances that produce a clear and present danger that they will participate in a riot; or

(2) Gives commands, instructions, or signals to others in furtherance of a riot.

(b)(1) Inciting riot is a Class D felony if ~~injury~~:

(A) Injury to a person or damage to property results from the offense; or

(B) The defendant resides in another state and traveled to this state with the purpose to commit the offense.

(2)(A) Otherwise, inciting riot is a Class A misdemeanor.

(B) A person convicted of inciting a riot shall be ordered to pay restitution for any injury, damage, or loss incurred as a result of the offense.

SECTION 11. Arkansas Code § 5-71-207 is amended to read as follows:

5-71-207. Disorderly conduct.

(a) A person commits the offense of disorderly conduct if, with the purpose to cause public inconvenience, annoyance, or alarm or recklessly creating a risk of public inconvenience, annoyance, or alarm, he or she:

- (1) Engages in fighting or in violent, threatening, or tumultuous behavior;
- (2) Makes unreasonable or excessive noise;
- (3) In a public place, uses abusive or obscene language, or makes an obscene gesture, in a manner likely to provoke a violent or disorderly response;
- (4) Disrupts or disturbs any lawful assembly, procession, or meeting of persons;
- (5) Obstructs vehicular or pedestrian traffic;
- (6) Congregates with two (2) or more other persons in a public place and refuses to comply with a lawful order to disperse of a law enforcement officer or other person engaged in enforcing or executing the law;
- (7) Creates a hazardous or physically offensive condition;
- (8) In a public place, mars, defiles, desecrates, or otherwise damages a patriotic or religious symbol that is an object of respect by the public or a substantial segment of the public; or
- (9) In a public place, exposes his or her private parts.

(b) Disorderly conduct is a:

- (1) Class A misdemeanor under subdivision (a)(4) of this section; and
- (2) Class C misdemeanor if otherwise committed.

SECTION 12. Arkansas Code § 5-71-214 is amended to read as follows:
5-71-214. Obstructing a highway or other public passage.

(a) A person commits the offense of obstructing a highway or other public passage if, having no legal privilege to do so and acting alone or with another person, he or she renders any highway or other public passage impassable to pedestrian or vehicular traffic.

(b) It is a defense to a prosecution under this section that:

- (1) The highway or other public passage was rendered impassable solely because of a gathering of persons to hear the defendant speak or otherwise communicate;
- (2) The defendant was a member of a gathering contemplated by subdivision (b)(1) of this section; or
- (3) The highway or public passage obstructed has not been established as a city street, county road, or state or federal highway under the laws of this state and no civil court has established a right of passage by prescription for the highway or public passage.

(c) Obstructing a highway or other public passage is a Class G A misdemeanor.

SECTION 13. Arkansas Code Title 12, Chapter 12, Subchapter 1, is amended to add an additional section to read as follows:

12-12-111. Investigation by Attorney General.

(a) The Attorney General may conduct an investigation when the Attorney General receives information sufficient to constitute probable cause to investigate one (1) or more of the following offenses:

- (1) Riot, § 5-71-201;
- (2) Aggravated riot, § 5-71-202;
- (3) Inciting riot, § 5-71-203; or
- (4) Obstructing a highway or other public passage, § 5-71-214.

(b) The Attorney General may refer findings of an investigation under this section to the prosecuting attorney with jurisdiction for possible criminal prosecution.

SECTION 14. Arkansas Code Title 16, Chapter 81, Subchapter 1, is amended to add an additional section to read as follows:

16-81-119. Required hold on certain arrestees.

(a)(1) Subject to United States and Arkansas constitutional provisions or a valid court order, and except as provided by subsection (b) of this section, a person arrested for riot, § 5-71-201, aggravated riot, § 5-71-202, inciting riot, § 5-71-203, or obstructing a highway or other public passage, § 5-71-214, shall not be released on bail or on the person's own recognizance within twelve (12) hours from the time of his or her arrest.

(2) A law enforcement officer who arrests a person under this subsection shall record the date and time of the person's arrest to establish the beginning of the twelve-hour period under subdivision (a)(1) of this section.

(b)(1) A court, magistrate, or other authorized law enforcement officer that finds that the person subject to subsection (a) of this section is not likely to resume immediately the behavior that led to the person's arrest based on the circumstances of the arrest as well as on the person's prior criminal history may authorize the person to be released.

(2) A decision by an authorized law enforcement officer to release a person from custody under subdivision (b)(1) of this section shall make written findings evidencing his or her decision, with the written findings to be attached to the arrest warrant and preserved as part of the arrest record."

The Amendment was read _____
By: Representative Brown
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BPG397

Chief Clerk