

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

As Engrossed: H2/27/19  
**A Bill**

HOUSE BILL 1379

By: Representatives C. Fite, McCullough

By: Senator Irvin

### **For An Act To Be Entitled**

AN ACT TO RECONCILE DIFFERENCES BETWEEN THE OFFENSES OF DOMESTIC BATTERING IN THE FIRST DEGREE AND BATTERY IN THE FIRST DEGREE; TO INCREASE THE PENALTIES FOR BATTERY OFFENSES UNDER CERTAIN CIRCUMSTANCES; AND FOR OTHER PURPOSES.

### **Subtitle**

TO RECONCILE DIFFERENCES BETWEEN THE OFFENSES OF DOMESTIC BATTERING IN THE FIRST DEGREE AND BATTERY IN THE FIRST DEGREE; AND TO INCREASE THE PENALTIES FOR BATTERY OFFENSES UNDER CERTAIN CIRCUMSTANCES.

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

*SECTION 1. Arkansas Code § 5-13-201 is amended to read as follows:*

*5-13-201. Battery in the first degree.*

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

*(1) With the purpose of causing serious physical injury to another person, the person causes serious physical injury to any person by means of a deadly weapon;*

*(2) With the purpose of seriously and permanently disfiguring another person or of destroying, amputating, or permanently disabling a member or organ of that other person's body, the person causes such an injury to any person;*



(3) *The person causes serious physical injury to another person under circumstances manifesting extreme indifference to the value of human life;*

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

(A) *The person commits or attempts to commit a felony; and*

(B) *In the course of and in furtherance of the felony or in immediate flight from the felony:*

(i) *The person or an accomplice causes serious physical injury to any person under circumstances manifesting extreme indifference to the value of human life; or*

(ii) *Another person who is resisting the felony or flight causes serious physical injury to any person;*

(5) *With the purpose of causing serious physical injury to an unborn child or to a woman who is pregnant with an unborn child, the person causes serious physical injury to the unborn child;*

(6) *The person knowingly causes physical injury to a pregnant woman in the commission of a felony or a Class A misdemeanor, and in so doing, causes serious physical injury to the pregnant woman's unborn child, and the unborn child is subsequently born alive;*

(7) *The person knowingly, without legal justification, causes serious physical injury to a person he or she knows to be sixty (60) years of age or older or twelve (12) years of age or younger;*

(8) *With the purpose of causing physical injury to another person, the person causes physical injury to any person by means of a firearm; or*

(9) *The person knowingly causes serious physical injury to any person four (4) years of age or younger under circumstances manifesting extreme indifference to the value of human life.*

(b) *It is an affirmative defense in any prosecution under subdivision (a)(4) of this section in which the defendant was not the only participant that the defendant:*

(1) *Did not commit the battery or in any way solicit, command, induce, procure, counsel, or aid the battery's commission;*

(2) *Was not armed with a deadly weapon;*

(3) *Reasonably believed that no other participant was armed with a deadly weapon; and*

(4) Reasonably believed that no other participant intended to engage in conduct that could result in serious physical injury.

(c)(1) Except as provided in subdivisions (c)(2) and (3) of this section, battery in the first degree is a Class B felony.

(2) Battery in the first degree is a Class Y felony under the circumstances described in subdivision (a)(2) or subdivision (a)(9) of this section.

(3) Battery in the first degree is a Class Y felony if the injured person is a law enforcement officer acting in the line of duty.

SECTION 2. Arkansas Code § 5-26-303 is amended to read as follows:  
5-26-303. Domestic battering in the first degree.

(a) A person commits domestic battering in the first degree if:

(1) With the purpose of causing serious physical injury to a family or household member, the person causes serious physical injury to a family or household member by means of a deadly weapon;

(2) With the purpose of seriously and permanently disfiguring a family or household member or of destroying, amputating, or permanently disabling a member or organ of a family or household member's body, the person causes such an injury to a family or household member;

(3) The person causes serious physical injury to a family or household member under circumstances manifesting extreme indifference to the value of human life;

(4) The person knowingly causes serious physical injury to a family or household member he or she knows to be sixty (60) years of age or older or twelve (12) years of age or younger;

(5) The person:

(A) Commits any act of domestic battering as defined in § 5-26-304 or § 5-26-305; and

(B) For conduct that occurred within the ten (10) years preceding the commission of the current offense, the person has on two (2) previous occasions been convicted of any act of battery against a family or household member as defined by the laws of this state or by the equivalent laws of any other state or foreign jurisdiction; ~~or~~

(6) With the purpose of causing physical injury to a family or household member, the person causes physical injury to a family or household

member by means of a firearm; or

(7) The person knowingly causes serious physical injury to a family or household member who is four (4) years of age or younger under circumstances manifesting extreme indifference to the value of human life.

(b)(1) Domestic battering in the first degree is a Class B felony.

(2) However, domestic battering in the first degree is a:

(A) Class Y felony under subdivision (a)(2) or subdivision (a)(7) of this section; or

(B) Class A felony ~~upon a conviction~~ under subsection (a) of this section if:

~~(A)(i)~~ Committed against a woman the person knew or should have known was pregnant; or

~~(B)(ii)~~ The person committed one (1) or more of the following offenses within five (5) years of the offense of domestic battering in the first degree:

~~(i)(a)~~ Domestic battering in the first degree;  
~~(ii)(b)~~ Domestic battering in the second degree, § 5-26-304;

~~(iii)(c)~~ Domestic battering in the third degree, § 5-26-305; or

~~(iv)(d)~~ A violation of an equivalent penal law of this state or of another state or foreign jurisdiction.

/s/C. Fite

APPROVED: 3/18/19