

The following table contains offenses which were created or redefined during the 87th General Assembly. These are the offenses the Arkansas Sentencing Commission ranked on June 10, 2009. In the last column of the table labeled “Preliminary Ranking,” you will find the Commission’s rankings. If you have any questions or comments concerning the rankings of these offenses, please contact the Arkansas Sentencing Commission at 101 East Capitol, Suite 470, Little Rock, Arkansas 72201. Our telephone number is (501) 682-5001. Our fax number is (501) 682-5018. Comments should be received by 4:30 p.m., Monday, July 13, 2009.

NEW OFFENSES

Act	Statute	Title	Felony Class	Preliminary Ranking
33	§ 5-62-103	Cruelty to Animals	D	2
	§ 5-62-104	Aggravated Cruelty to a Dog, Cat, or Horse <ul style="list-style-type: none"> • A first offense of aggravated cruelty to a dog, cat, or horse is a Class D felony. • A second or subsequent offense of aggravated cruelty to a dog, cat, or horse within 5 years of a previous offense of aggravated cruelty to a dog, cat, or horse is a Class C felony. 	D	3
			C	4
	§ 5-62-120	Animal Fighting	D	2
196	§ 20-16-1203	Partial-Birth Abortions	D	3
331	§ 5-53-134(b)	Violation of an Order of Protection <ul style="list-style-type: none"> • The offense becomes a Class D felony if the offense was committed within five years of a previous conviction for violation of an order of protection. 	D	3
336	§ 5-37-215	Fraudulently Filing a Uniform Commercial Code Financing Statement <ul style="list-style-type: none"> • A subsequent offense is a Class D felony 	D	1
390	§ 5-38-206	Damaging Wires and other fixtures of telephone, cable, and electric power companies	D	3
444	§ 17-30-102	Licensure of Professional Engineers and Professional Surveyors - Penalties – Violations <ul style="list-style-type: none"> • The second or any subsequent offense is a Class D felony. 	D	1
525	§ 12-12-1720	False Reporting of Adult Abuse <ul style="list-style-type: none"> • A Subsequent offense is a Class D felony 	D	2

Act	Statute	Title	Felony Class	Preliminary Ranking
605 & 606	§ 23-115-902	Penalties in the Lottery Act Fraud – Penalty (page 51 of Act) <ul style="list-style-type: none"> • A person who, with a purpose to defraud, falsely makes, alters, forges, utters, passes, or counterfeits a ticket is guilty of a Class D felony. • A person who purposely influences or attempts to influence the winning of a lottery prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials is guilty of a Class D felony. 	D	2
			D	2
	§ 23-115-903	False statement on license application – Penalty	D	2
628	§ 17-14-411	An Act to Provide for the Registration & Regulation of Appraisal Management Companies -- Injunctive Relief – Criminal penalty <ul style="list-style-type: none"> • A violation is a Class D felony. 	D	1
655	§ 26-57-240	Counterfeiting of (cigarette) stamps unlawful – Penalty	D	2
712	§ 5-64-1103	Penalty for violation of sales limits for ephedrine <ul style="list-style-type: none"> • Raises to a Class D felony upon a third conviction. • Raises to a Class C felony upon a fourth or subsequent conviction. 	D	3
		Concerning the Purchase or Acquisition of Ephedrine <ul style="list-style-type: none"> • Raises to a Class C felony upon a fourth or subsequent conviction. 	C	4
		Concerning the Purchase or Acquisition of Ephedrine <ul style="list-style-type: none"> • Raises to a Class D felony upon a third conviction. 	D	3
		Concerning the Purchase or Acquisition of Ephedrine <ul style="list-style-type: none"> • Raises to a Class C felony upon a fourth or subsequent conviction. 	C	4
749	§ 12-18-203	Making a false report under the Child Maltreatment Act <ul style="list-style-type: none"> • A second and subsequent offense is a Class D felony. 	D	3
974	§ 12-12-1002	Penalties for releasing or disclosing to any unauthorized person any information collected & maintained in the State Criminal Database	D	3
	§12-12-1115(b)	Prohibited Disclosure of DNA information	D	2
	§ 12-12-1116	Prohibition against disclosure for pecuniary gain	D	2
976	§ 3-3-219	Social Hosts – Criminal Liability <ul style="list-style-type: none"> • Third or subsequent violation is a Class D felony 	D	2
1212	§ 20-27-1502	Unlawful to Perform Body Art on any person under 18 years of age in any unlicensed facility	D	2

Act	Statute	Title	Felony Class	Preliminary Ranking
1298	§ 17-27-104(a)	Practicing counseling without a license	D	1

AMENDED OFFENSES

Act	Statute	Title	Felony Class	Preliminary Ranking
194	§ 5-26-303(a)	Domestic Battering in the First Degree	B	8
		<ul style="list-style-type: none"> • Adds the language that a person commits domestic battering in the first degree if the person knowingly causes serious physical injury to a family or household member he or she knows to be 60 years of age or older or 12 years of age or younger. • Domestic Battering in the First Degree is a Class B felony. • However, if Domestic Battering in the First Degree is committed against a woman the person knew or should have known was pregnant; OR it is for conduct that occurred within 5 years of a preceding offense of (a) domestic battering in the first; (b) domestic battering in the second; (c) domestic battering in the third; or (d) equivalent to another jurisdiction, then it is a Class A felony. 		
	§ 5-26-304(a)	Domestic Battering in the Second Degree	C	4
		<ul style="list-style-type: none"> • Adds the language that a person commits domestic battering in the second degree if the person knowingly causes serious physical injury to a family or household member he or she knows to be 60 years of age or older or 12 years of age or younger. • Domestic Battering in the Second Degree is a Class C felony. • However, if Domestic Battering in the Second Degree is committed against a woman the person knew or should have known was pregnant OR it is for conduct that occurred within 5 years of a preceding offense of (a) domestic battering in the first; (b) domestic battering in the second; (c) domestic battering in the third; or (d) equivalent to another jurisdiction, then it is a Class B felony. 		
332	§ 5-13-204	Aggravated Assault	D	3
339	§ 5-73-108(b)(1)	Criminal Distribution of Explosive Material	C	5
		Unlawful receipt of possession of an explosive material if the person receives or possesses explosive material	C	5
343	§ 5-54-104	Interference with a law enforcement officer	C	4
344	§ 5-13-202	Battery in the Second Degree	D	4

Act	Statute	Title	Felony Class	Preliminary Ranking
478	§ 5-54-110	First Degree Escape <ul style="list-style-type: none"> Raises escape in the first degree to a Class A felony when the person escapes and at the time was in the custody of either: (A) the Department of Correction; (B) the Department of Community Correction; or (C) a law enforcement agency. 	A	7
	§ 5-54-111	Second Degree Escape <ul style="list-style-type: none"> Raises escape in the second degree to a Class B felony when the person escapes and at the time was in the custody of either: (A) the Department of Correction; (B) the Department of Community Correction; or (C) a law enforcement agency. 	B	6
	§ 5-54-112	Third Degree Escape <ul style="list-style-type: none"> Raises escape in the third degree to a Class C felony when the person escapes and at the time was in the custody of either: (A) the Department of Correction; (B) the Department of Community Correction; or (C) a law enforcement agency. 	C	4
	§ 5-54-117	Assisting in or furnishing an implement for escape <ul style="list-style-type: none"> Raises the penalty for furnishing an implement to escape from a Class C felony to a Class B felony if the implement for escape provided is a deadly weapon. Raises the penalty for furnishing an implement to escape from a Class D felony to a Class C felony. 	B C	6 4
479	§ 5-54-119	Furnishing, Possessing, or Using prohibited articles <ul style="list-style-type: none"> Adds the language that a person commits possessing a prohibited article if, being an inmate of the Department of Correction, the person knowingly possesses a: (A) cellular telephone or other communication device; or (B) component of a cellular telephone or other communication device. A violation is a Class B felony. Adds the language a person commits using a prohibited article if, being an inmate of the Department of Correction, the person knowingly used a cellular telephone or other communication device to commit or to attempt, conspire, or solicit to commit: (A) an escape from the custody of the Department of Correction; (B) engaging in a continuing criminal enterprise, § 5-64-405; or (C) a violent felony as defined at § 5-4-501(d)(2). A violation is a Class A felony. 	B A	5 7
650	§ 5-10-105	Negligent homicide <ul style="list-style-type: none"> Raises the penalty class from a Class C felony to a Class B felony when a person commits negligent homicide if he or she negligently causes the death of another person, not constituting murder or manslaughter, as a result of operating a vehicle, an aircraft, or a watercraft: (A) while intoxicated; or (B) when one's alcohol concentration was 0.08 or more; or (C) while passing a stopped school bus in violation of § 27-51-1004. 	B	6

Act	Statute	Title	Felony Class	Preliminary Ranking
658	§ 7-1-104(a)	Election Felony Offenses	D	2
1295	§ 5-36-103	Theft of property <ul style="list-style-type: none"> • Class B felony when value of the property is \$500 or more and the theft occurred in an area declared to be under a state of emergency pursuant to proclamation by the President of the US, the Governor, or the executive officer of a city or county. • Class C felony when the value of the property is at least \$100 but less than \$500 and the theft occurred in an area declared to be under a state of emergency pursuant to proclamation by the President of the US, the Governor, or the executive officer of a city or county. 	B C	5 3

OFFENSES MODIFIED BY LEGISLATION

Act	Statute	Title	Felony Class	Preliminary Ranking
530	§ 5-54-126	Killing or injuring animals used by law enforcement or search and rescue dogs <ul style="list-style-type: none"> • Adds the new language to § 5-54-126 – (1) purposely kills or physically injures; (2) purposely cause physical contact that is of a nature likely to cause physical injury to; or (3) attempts to cause physical contact that is of a nature likely to cause physical injury to. 	D	3
630	§ 5-14-127	Sexual assault in the fourth degree <ul style="list-style-type: none"> • Adds the language that constitutes a new way to commit sexual assault in the fourth degree – Engages in sexual contact with another person who is not the actor’s spouse, and the actor is employed with the Department of Correction, Department of Community Correction, Department of Human Services, or any city or county jail, and the victim is in the custody of the Department of Correction, Department of Community Correction, Department of Human Services, or any city or county jail. 	D	4

