

ARKANSAS CRIMES CHART

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Maintained by: Suzanne Lewis, BLM and Spencer Shucard, OMA

| Possible Charges of Removability | Maximum Sentence | Aggravated Felony? | Crime Involving Moral Turpitude? | Other |
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| <p>Ark. Code Ann. § 5-39-201(a)(1): (a)(1) A person commits residential burglary if he or she enters or remains unlawfully in a residential occupiable structure of another person with the purpose of committing in the residential occupiable structure any offense punishable by imprisonment. (2) Residential burglary is a Class B felony.</p> | | | | |
| INA § 212(a)(2)(A)(i)(I) / § 237(a)(2)(A)(iii) agfel G | For a Class B felony, the sentence shall be not less than five (5) years nor more than twenty (20) years; Ark. Code Ann. § 5-4-401 (West) | No – statute is overbroad and indivisible because it includes vehicles. <u>United States v. Sims</u> , 854 F.3d 1037, 1038 (8th Cir. 2017): Where a burglary statute includes vehicles within its scope, it is overbroad when compared to generic burglary, even if the statute explicitly limits its reach to vehicles that can be lived in. <u>United State v. Lamb</u> , 847 F.3d 928 (8th Cir. 2017), followed. | | |

Work in progress as of July 10, 2017, by Suzanne Lewis, Attorney Advisor. Chart is reviewed frequently.
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Note: Chart is advisory. Check for all relevant exceptions and exemptions.

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| Ark. Code Ann. § 5-13-202 (a)(2) A person is guilty of second degree battery if - With the purpose of causing physical injury to another person, the person causes physical injury to another person by means of a deadly weapon other than a firearm; | | | | |
| INA § 237(a)(2)(A)(iii) agfel F | For a Class D felony, the sentence shall not exceed six (6) years; Ark. Code Ann. § 5-4-401 (West) | <p><u>United States v. Winston</u>, 845 F.3d 876, 878 (8th Cir. 2017), <u>cert. denied</u>, No. 16-8863, 2017 WL 1495503 (U.S. May 30, 2017):</p> <p>Criminal sentencing under the ACCA. The Eighth Circuit found Section 5-13-202(a) divisible as a list of elements in the alternative and concluded that because physical force, which means force “capable” of producing an injury, and physical injury, which cannot occur without force sufficiently physical to create it, are a match. Based on the dearth of categorical language here and a lack of analysis as to what “physical injury” actually entails in Arkansas as a practical matter, the impact of this case is probably limited to this specific Arkansas statute.</p> | | |

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| Ark. Code Ann. § 5-13-201 (a)(1) A person is guilty of first degree battery if - (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; | | | | |
| INA § 237(a)(2)(A) (iii) agfel F | (1) For a Class Y felony, the sentence shall be not less than ten (10) years and not more than forty (40) years, or life; (3) For a Class B felony, the sentence shall be not less than five (5) years nor more than twenty (20) years; Ark. Code § 5-4-401 | <u>United States v. Thomas</u> , 838 F.3d 926, 927 (8th Cir. 2016), <u>cert. denied</u> , 137 S. Ct. 840, 197 L. Ed. 2d 77 (2017): This was a criminal sentencing case. The Circuit held that where a “deadly weapon” is defined by the state as a firearm or anything made for the purpose of inflicting death or serious physical injury, and where “serious physical injury” is defined an injury that carries a substantial risk of death, disfigurement, lengthy health impairment, or loss of use of a limb or body function, then a conviction for battery under that statute is necessarily a crime of violence under the Sentencing Guidelines. | | |

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