

REFERENCE TITLE: **criminal damage; trespassing; critical facilities**

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

## **HB 2212**

Introduced by  
Representative Griffin

**AN ACT**

**AMENDING SECTIONS 13-1504, 13-1602, 13-1604, 13-4903 AND 13-4904, ARIZONA  
REVISED STATUTES; RELATING TO CRIMINAL PENALTIES.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-1504, Arizona Revised Statutes, is amended to  
3 read:

4 13-1504. Criminal trespass in the first degree;  
5 classification

6 A. A person commits criminal trespass in the first degree by  
7 knowingly:

8 1. Entering or remaining unlawfully in or on a residential  
9 structure.

10 2. Entering or remaining unlawfully in a fenced residential yard.

11 3. Entering any residential yard and, without lawful authority,  
12 looking into the residential structure thereon in reckless disregard of  
13 infringing on the inhabitant's right of privacy.

14 4. Entering unlawfully on real property that is subject to a valid  
15 mineral claim or lease with the intent to hold, work, take or explore for  
16 minerals on the claim or lease.

17 5. Entering or remaining unlawfully on the property of another and  
18 burning, defacing, mutilating or otherwise desecrating a religious symbol  
19 or other religious property of another without the express permission of  
20 the owner of the property.

21 6. Entering or remaining unlawfully in or on a critical public  
22 service facility.

23 B. Criminal trespass in the first degree under subsection A,  
24 paragraph 6 of this section is a class ~~5~~ 4 felony. Criminal trespass in  
25 the first degree under subsection A, paragraph 1 or 5 of this section is a  
26 class 6 felony. Criminal trespass in the first degree under subsection A,  
27 paragraph 2, 3 or 4 of this section is a class 1 misdemeanor.

28 Sec. 2. Section 13-1602, Arizona Revised Statutes, is amended to  
29 read:

30 13-1602. Criminal damage; classification

31 A. A person commits criminal damage by:

32 1. Recklessly defacing or damaging property of another person.

33 2. Recklessly tampering with property of another person so as  
34 substantially to impair its function or value.

35 3. Recklessly damaging property of a utility.

36 4. Recklessly parking any vehicle in such a manner as to deprive  
37 livestock of access to the only reasonably available water.

38 5. Recklessly drawing or inscribing a message, slogan, sign or  
39 symbol that is made on any public or private building, structure or  
40 surface, except the ground, and that is made without permission of the  
41 owner.

42 6. Intentionally tampering with utility property.

43 B. Criminal damage is punished as follows:

1           1. CRIMINAL DAMAGE IS A CLASS 3 FELONY IF THE PERSON INTENTIONALLY  
2 TAMPERS WITH UTILITY PROPERTY AND THE DAMAGE CAUSES AN IMMINENT SAFETY  
3 HAZARD TO ANY PERSON.

4           ~~1.~~ 2. Criminal damage is a class 4 felony if the person recklessly  
5 damages property of another in an amount of ~~ten thousand dollars~~ \$10,000  
6 or more.

7           ~~2.~~ 3. Criminal damage is a class 4 felony if the person recklessly  
8 damages the property of a utility in an amount of ~~five thousand dollars~~  
9 \$5,000 or more ~~or if the person intentionally tampers with utility~~  
10 ~~property and the damage causes an imminent safety hazard to any person.~~

11           ~~3.~~ 4. Criminal damage is a class 5 felony if the person recklessly  
12 damages property of another in an amount of ~~two thousand dollars~~ \$2,000 or  
13 more but less than ~~ten thousand dollars~~ \$10,000 or if the damage is  
14 inflicted to promote, further or assist any criminal street gang or  
15 criminal syndicate with the intent to intimidate and the person is not  
16 subject to paragraph 1, ~~or~~ 2 OR 3 of this subsection.

17           ~~4.~~ 5. Criminal damage is a class 6 felony if the person recklessly  
18 damages property of another in an amount of ~~one thousand dollars~~ \$1,000 or  
19 more but less than ~~two thousand dollars~~ \$2,000.

20           ~~5.~~ 6. Criminal damage is a class 1 misdemeanor if the person  
21 recklessly damages property of another in an amount of more than ~~two~~  
22 ~~hundred fifty dollars~~ \$250 but less than ~~one thousand dollars~~ \$1,000.

23           ~~6.~~ 7. In all other cases criminal damage is a class 2 misdemeanor.

24           C. For a violation of subsection A, paragraph 5 of this section, in  
25 determining the amount of damage to property, damages include reasonable  
26 labor costs of any kind, reasonable material costs of any kind and any  
27 reasonable costs that are attributed to equipment that is used to abate or  
28 repair the damage to the property.

29           Sec. 3. Section 13-1604, Arizona Revised Statutes, is amended to  
30 read:

31           13-1604. Aggravated criminal damage; classification

32           A. A person commits aggravated criminal damage by intentionally or  
33 recklessly without the express permission of the owner:

34           1. Defacing, damaging or in any way changing the appearance of any  
35 building, structure, personal property or place used for worship or any  
36 religious purpose.

37           2. Defacing or damaging any building, structure or place used as a  
38 school or as an educational facility.

39           3. Defacing, damaging or tampering with any cemetery, mortuary or  
40 personal property of the cemetery or mortuary or other facility used for  
41 the purpose of burial or memorializing the dead.

42           4. Defacing, damaging or tampering with any utility or agricultural  
43 infrastructure or property, construction site or existing structure for  
44 the purpose of obtaining nonferrous metals OR INTERFERING WITH OR  
45 OTHERWISE PREVENTING THE PERFORMANCE OF A NORMAL FUNCTION OF ANY UTILITY

1 INFRASTRUCTURE OR PROPERTY OR THE INTENDED COURSE OR PATH OF ANY UTILITY  
2 SERVICE.

3 B. Aggravated criminal damage is punishable as follows:

4 1. If the person intentionally or recklessly does any act described  
5 in subsection A of this section that causes damage to the property of  
6 another in an amount of ~~ten thousand dollars~~ \$10,000 or more, aggravated  
7 criminal damage:

8 (a) Resulting from actions described in subsection A, paragraph 1,  
9 2 or 3 of this section is a class 4 felony.

10 (b) Resulting from actions described in subsection A, paragraph 4  
11 of this section is a class ~~5~~ 2 felony.

12 2. If the person intentionally or recklessly damages property of  
13 another in an amount of ~~one thousand five hundred dollars~~ \$1,500 or more  
14 but less than ~~ten thousand dollars~~ \$10,000, aggravated criminal damage:

15 (a) Resulting from actions described in subsection A, paragraph 1,  
16 2 or 3 of this section is a class 5 felony.

17 (b) Resulting from actions described in subsection A, paragraph 4  
18 of this section is a class ~~4~~ 3 felony.

19 3. In all other cases aggravated criminal damage is:

20 (a) A class 6 felony if it results from actions described in  
21 subsection A, paragraph 1, 2 or 3 of this section.

22 (b) A class ~~5~~ 4 felony if it results from actions described in  
23 subsection A, paragraph 4 of this section.

24 C. In determining the amount of damage to property, damages include  
25 the cost of repair or replacement of the property that was damaged, **THE**  
26 **COST OF THE LOSS OF THE UTILITY SERVICE**, the cost of the loss of crops and  
27 livestock, reasonable labor costs of any kind, reasonable material costs  
28 of any kind and any reasonable costs that are attributed to equipment that  
29 is used to abate or repair the damage to the property.

30 Sec. 4. Section 13-4903, Arizona Revised Statutes, is amended to  
31 read:

32 13-4903. Use of force; armed nuclear security guards

33 A. An armed nuclear security guard is justified in using physical  
34 force against another person at a commercial nuclear generating station or  
35 structure or fenced yard of a commercial nuclear generating station if the  
36 armed nuclear security guard reasonably believes that such force is  
37 necessary to prevent or terminate the commission or attempted commission  
38 of criminal damage under section 13-1602, subsection A, paragraph 3 and  
39 subsection B, paragraph 1, ~~OR~~ 2 OR 3, misconduct involving weapons under  
40 section 13-3102, subsection A, paragraph 13 or criminal trespass on a  
41 commercial nuclear generating station under section 13-4902.

42 B. Notwithstanding sections 13-403, 13-404, 13-405, 13-406, 13-408,  
43 13-409, 13-410 and 13-411, an armed nuclear security guard is justified in  
44 using physical force up to and including deadly physical force against  
45 another person at a commercial nuclear generating station or structure or

1 fenced yard of a commercial nuclear generating station if the armed  
2 nuclear security guard reasonably believes that such force is necessary  
3 to:

4 1. Prevent the commission of manslaughter under section 13-1103,  
5 second or first degree murder under section 13-1104 or 13-1105, aggravated  
6 assault under section 13-1204, subsection A, paragraph 1 or 2, kidnapping  
7 under section 13-1304, burglary in the second or first degree under  
8 section 13-1507 or 13-1508, arson of a structure or property under section  
9 13-1703, arson of an occupied structure under section 13-1704, armed  
10 robbery under section 13-1904 or an act of terrorism under section  
11 13-2308.01.

12 2. Defend oneself or a third person from the use or imminent use of  
13 deadly physical force.

14 C. Notwithstanding any other provision of this chapter, an armed  
15 nuclear security guard is justified in threatening to use physical or  
16 deadly physical force if and to the extent a reasonable armed nuclear  
17 security guard believes it necessary to protect oneself or others against  
18 another person's potential use of physical force or deadly physical force.

19 D. An armed nuclear security guard is not subject to civil  
20 liability for engaging in conduct that is otherwise justified pursuant to  
21 this chapter.

22 Sec. 5. Section 13-4904, Arizona Revised Statutes, is amended to  
23 read:

24 13-4904. Detention authority; armed nuclear security guards

25 A. An armed nuclear security guard, with reasonable belief, may  
26 detain in or on a commercial nuclear generating station or a structure or  
27 fenced yard of a commercial nuclear generating station in a reasonable  
28 manner and for a reasonable time any person who is suspected of committing  
29 or attempting to commit manslaughter under section 13-1103, second or  
30 first degree murder under section 13-1104 or 13-1105, aggravated assault  
31 under section 13-1204, subsection A, paragraph 1 or 2, kidnapping under  
32 section 13-1304, burglary in the second or first degree under section  
33 13-1507 or 13-1508, criminal damage under section 13-1602, subsection A,  
34 paragraph 3 and subsection B, paragraph 1, ~~OR~~ 2 OR 3, arson of a structure  
35 or property under section 13-1703, arson of an occupied structure under  
36 section 13-1704, armed robbery under section 13-1904, an act of terrorism  
37 under section 13-2308.01, misconduct involving weapons under section  
38 13-3102, subsection A, paragraph 13 or criminal trespass on a commercial  
39 nuclear generating station under section 13-4902 for the purpose of  
40 summoning a law enforcement officer.

41 B. Reasonable belief of an armed nuclear security guard is a  
42 defense to a civil or criminal action against an armed nuclear security  
43 guard for false arrest, false or unlawful imprisonment or wrongful  
44 detention.