

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**

# **A Bill**

**ACT 550 OF 1993**  
**SENATE BILL 363**

4 **By: Senators Everett, Bookout, Jewell, Fitch, Bell, and Edwards**

5  
6  
7

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

8 "AN ACT TO ESTABLISH SENTENCING POLICIES AND STANDARDS,  
9 AND TO CREATE THE ARKANSAS SENTENCING COMMISSION; AND FOR  
10 OTHER PURPOSES."

11

### **Subtitle**

12  
13 "TO ESTABLISH SENTENCING POLICIES AND STANDARDS AND TO  
14 CREATE THE ARKANSAS SENTENCING COMMISSION"

15

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

17

18 SECTION 1. Statement of Sentencing Policy.

19 (A) Purposes of Sentencing - The primary purposes of sentencing a person  
20 convicted of a crime are to punish an offender commensurate with the nature  
21 and extent of harm caused by the offense, taking into account factors that may  
22 diminish or increase an offender's culpability; to protect the public by  
23 restraining offenders; to provide restitution or restoration to victims of  
24 crime to the extent possible and appropriate; to assist the offender toward  
25 rehabilitation and restoration to the community as a lawful citizen; and to  
26 deter criminal behavior and foster respect for the law.

27 (B) Purpose of Sentencing Standards - Though voluntary, the purpose of  
28 establishing rational and consistent sentencing standards is to seek to ensure  
29 that sanctions imposed following conviction are proportional to the  
30 seriousness of the offense of conviction and the extent of the offender's  
31 criminal history. The standards seek to ensure equitable sanctions which  
32 provide that offenders similar with respect to relevant sentencing criteria  
33 will receive similar sanctions and offenders substantially different with  
34 respect to relevant sentencing criteria will receive different sanctions.  
35 Sentencing criteria should be neutral with respect to race, gender, social and  
36 economic status.

1 (C) Appropriate Use of Sentencing Sanctions - Rational and consistent  
2 sentencing policy requires a continuum of sanctions which increases in direct  
3 proportion to the seriousness of the offense and the extent of the offender's  
4 criminal history. Commitment to the Arkansas Department of Correction is the  
5 most severe sanction and due to the finite capacity of the department's  
6 facilities, it should be reserved for those convicted of the most serious  
7 offenses, those who have longer criminal histories, and those who have  
8 repeatedly failed to comply with conditions imposed under less restrictive  
9 sanctions. Arkansas law provides for significant intermediate penal sanctions  
10 in the community which should be utilized when appropriate. Restrictions on  
11 an offender's liberty should only be as restrictive as necessary to fulfill  
12 the purposes of sentencing contained in this policy.

13

14 SECTION 2. Voluntary Presumptive Standards.

15 *When a person charged with a felony enters a plea of guilty or no*  
16 *contest, enters a negotiated plea, or is found guilty in a trial before the*  
17 *judge, or when the trial judge is authorized to fix punishment following an*  
18 *adjudication of guilt by a jury pursuant to Arkansas Code Annotated 5-4-103,*  
19 *sentencing shall follow the procedures provided in this chapter. The*  
20 *presumptive sentence shall be determined, but may be departed from pursuant to*  
21 *the procedures outlined in Section 3. The presumptive sentence for any*  
22 *offender of a felony committed on or after January 1, 1994, is determined by*  
23 *locating the appropriate cell of the Sentencing Standards Grid. The two*  
24 *dimensions of the grid represent the primary determinants of a sentence:*  
25 *offense seriousness and offender history.*

26 (A) Offense Seriousness: The offense seriousness level is determined by  
27 the offense of conviction. Felony offenses are divided into ten levels of  
28 seriousness, ranging from low, *Seriousness Level I* to high, *Seriousness Level*  
29 *X*. Capital murder is excluded from the sentencing standards and is subject to  
30 the procedures in ACA 5-4-601 et seq. The typical case for the offenses listed  
31 within each level of seriousness are deemed to be generally equivalent in  
32 seriousness. The most frequently occurring offenses within each seriousness  
33 level are listed on the vertical axis of the Sentencing Standards Grid. The  
34 seriousness level for infrequently occurring offenses can be determined by  
35 consulting the "Offense *Seriousness Reference Table*". The seriousness level

1 for inchoate offenses is one level below the level for substantive offenses.

2 (B) Offender History: An offender's criminal history score constitutes  
3 the horizontal axis of the Sentencing Standards Grid. The offender's criminal  
4 history score shall be computed from the following: (1)prior felony records;  
5 (2)prior misdemeanor records; (3)prior juvenile records under certain  
6 circumstances outlined below; and (4)custody status at the time of the  
7 offense. The specific weight to be assigned to the various criteria is as  
8 follows

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

1

2 :

3 (1) Felonies - Weight is assigned to prior felony convictions  
4 according to seriousness level, as follows:

5 *Seriousness* Level I, II, III, IV & V = .5 point

6 *Seriousness* Level VI, VII, VIII, IX & X = 1 point

7 (2) Misdemeanors - Weight is assigned only to Class A  
8 misdemeanors. Each Class A misdemeanor is worth .25 points. No more than one  
9 point may be accrued from misdemeanor convictions.

10 (3) Juvenile offenses - Weight is assigned only to judicial  
11 *adjudications of delinquency for offenses for which the juvenile could have*  
12 *been tried as an adult and which the trial court deems relevant to sentencing*  
13 *in the current proceeding. Each adjudication is worth .25 points, except for*  
14 *offenses adjudicated as delinquent which would have constituted capital*  
15 *murder, murder in the first degree, murder in the second degree, kidnapping in*  
16 *the first degree, aggravated robbery, rape or battery in the first degree if*  
17 *committed by an adult which are worth 1 point. No more than one point may be*  
18 *accrued from juvenile offenses unless one of the offenses adjudicated as*  
19 *delinquent would have constituted capital murder, murder in the first degree,*  
20 *murder in the second degree, kidnapping in the first degree, aggravated*  
21 *robbery, rape or battery in the first degree if committed by an adult, then an*  
22 *offender may receive no more than two points for juvenile offenses.*

23 (4) Custody status - One point is to be added to an offender's  
24 score if the offender is under any type of criminal justice restraint for a  
25 felony offense at the time that he committed the crime for which he is being  
26 sentenced. Such restraint includes *pre-trial bond*, suspended imposition of  
27 sentence, probation, parole, post-prison supervision and/or release pending  
28 sentencing for a prior crime.

29 (5) Effect of passage of time -

30 (1) Juvenile offenses must have occurred within ten years of  
31 the time of the offense for which he is being currently sentenced;

32 (2) *Misdemeanor offenses must have occurred within ten (10)*  
33 *years of the time of the offense for which he is currently being sentenced;*

34 (3) Felony offenses at levels I-V will not be counted if a  
35 period of fifteen years has elapsed since the date of discharge from or

1 expiration of the sentence, to the date of the current offense.

2           (6) Multiple offenses - When multiple sentences for a single  
3 course of conduct were imposed, only the offense at the highest *seriousness*  
4 level is considered.

5           (C) Presumptive Sentences: The offense of conviction determines the  
6 appropriate *seriousness* level on the vertical axis. The offender's criminal  
7 history score determines the appropriate location on the horizontal axis. The  
8 presumptive fixed sentence for a felony conviction is found in the Sentencing  
9 Grid cell at the intersection of the column defined by the criminal history  
10 score and the row defined by the offense seriousness level. The statutory  
11 minimum or maximum ranges for a particular crime shall govern over a  
12 presumptive sentence if the presumptive sentence should fall below or above  
13 such ranges.

14           (D) *This section shall not apply when a jury has recommended a sentence*  
15 *to the trial judge.*

16

17           SECTION 3. Departures from the Standards.

18           *Effective January 1, 1994, the trial court may deviate within a five*  
19 *percent (5%) range below or above the presumptive sentence without providing a*  
20 *written justification. For the trial court to depart beyond the five percent*  
21 *(5%) range below or above the presumptive sentence, written justification*  
22 *shall be given, specifying the reasons for such departure. A copy of these*  
23 *written reasons shall be attached to the commitment and another copy forwarded*  
24 *to the Sentencing Commission.*

25           (A) *Sentencing by the Court: When sentencing is done by the judge*  
26 *following the entry of a guilty or no contest plea, or a trial before the*  
27 *judge, either or both parties may present evidence to justify a departure. The*  
28 *judge may allow argument if he finds that it would be helpful. If both sides*  
29 *agree on a recommended sentence, the judge may choose to accept or reject the*  
30 *agreement based upon the facts of the case and whether those facts support the*  
31 *presumptive sentence or a departure different from any recommendation. If*  
32 *there is an agreed departure from the presumptive sentence, written reasons*  
33 *shall be supplied by the parties to the court for attachment to the commitment*  
34 *and to forward to the Sentencing Commission. If the judge rejects the*  
35 *agreement, the defendant shall be allowed to withdraw his plea.*

1           (B) Transfer or release eligibility: When a sentence is *imposed* after  
2 the effective date of these standards which is outside the presumptive range  
3 and which is not accompanied by written reasons for the departure, an offender  
4 *shall* be considered for any discretionary release applicable under the law as  
5 if he had received the presumptive sentence and the transfer or releasing  
6 authority may review, grant, or deny transfer or release based on any  
7 eligibility established by the presumptive sentence term.

8           (C) Departure Factors: The following is a nonexclusive list of factors  
9 which may be used as reasons for departure:

10                   (1) Mitigating factors:

11                           (a) While falling short of a defense, the victim played an  
12 aggressive role in the incident or provoked or willingly participated in it.

13                           (b) While falling short of a defense, the offender lacked  
14 substantial capacity for judgment because of physical or mental impairment  
15 (voluntary use of drugs or alcohol does not fall within this factor).

16                           (c) The offender played a minor or passive role in the  
17 crime.

18                           (d) Before detection, the offender compensated or made a  
19 good faith effort to compensate, the victim for any damage or injury  
20 sustained.

21                           (e) The offense was principally accomplished by another  
22 person and the offender manifested extreme caution or sincere concern for the  
23 safety or well-being of the victim.

24                           (f) The offender or the offender's children suffered a  
25 continuing pattern of physical or sexual abuse by the victim of the offense  
26 and the offense is a response to that abuse.

27                           (g) The operation of the multiple offense policy results in  
28 a presumptive sentence that is clearly excessive in light of the purpose of  
29 this chapter.

30                           (h) *Before detection in sexual offenses, the offender has*  
31 *voluntarily admitted the nature and extent of the sexual offense and has*  
32 *sought and participated in professional treatment or counseling for such*  
33 *offenses.*

34                           (i) *Upon motion of the State stating that the defendant has*  
35 *made a good faith effort to provide substantial assistance to the*

1 investigation or prosecution of another person who has committed an offense,  
2 the circumstances listed below may be weighed as mitigating factors with  
3 respect to the defendant's offense.

4 (1) the timeliness of the defendant's assistance;

5 (2) the nature and extent of the defendant's  
6 assistance;

7 (3) the truthfulness, completeness, and demonstrable  
8 reliability of any information or testimony provided by the defendant.

9 (2) Aggravating factors:

10 (a) Offender's conduct during the commission of the current  
11 offense manifested deliberate cruelty to the victim exhibited by degrading,  
12 gratuitous, vicious, torturous, demeaning, physical or verbal abuse, unusual  
13 pain, or violence in excess of that necessary to accomplish the criminal  
14 purpose.

15 (b) Offender knew or should have known that the victim was  
16 particularly vulnerable or incapable of resistance due to extreme youth,  
17 advanced age, disability, or ill health.

18 (c) The current offense was a major economic offense or  
19 series of offenses, so identified by a consideration of any of the following  
20 factors:

21 (i) The current offense involved multiple victims or  
22 multiple incidents per victim;

23 (ii) The current offense involved attempted or actual  
24 monetary loss substantially greater than typical for the offense;

25 (iii) The current offense involved a high degree of  
26 sophistication or planning or occurred over a lengthy period of time;

27 (iv) The defendant used his or her position of trust,  
28 confidence, or fiduciary responsibility to facilitate the commission of the  
29 current offense. *The factor does not apply if it constitutes an element of*  
30 *the crime.*

31 (v) The defendant has been involved in other conduct  
32 similar to the current offense as evidenced by the findings of civil or  
33 administrative law proceedings or the imposition of professional sanctions.

34 (d) The offense was a major controlled substance offense,  
35 identified as an offense or series of offenses related to trafficking in

1 controlled substances under circumstances more onerous than the usual offense.  
2 The presence of two or more of the circumstances listed below are aggravating  
3 factors with respect to the offense:

4 (i) The offense involved at least three separate  
5 transactions wherein controlled substances were sold, transferred, or  
6 possessed with intent to do so; or

7 (ii) The offense involved an attempted or actual sale  
8 or transfer of controlled substances in amounts substantially larger than the  
9 statutory minimum which defines the offense; or

10 (iii) The offense involved a high degree of  
11 sophistication or planning or occurred over a lengthy period of time or  
12 involved a broad geographic area of disbursement; or

13 (iv) The circumstances of the offense reveal the  
14 offender to have occupied a high position in the drug distribution hierarchy;  
15 or

16 (v) The offender used his position or status to  
17 facilitate the commission of the offense including positions of trust,  
18 confidence or fiduciary relationships (e.g., pharmacist, physician or other  
19 *medical professional*).

20 (vi) *The offender has received substantial income or*  
21 *resources from his involvement in drug trafficking.*

22 (e) The offender employed a firearm in the course of or in  
23 furtherance of the felony, or in immediate flight therefrom. This factor does  
24 not apply to an offender convicted of a felony, an element of which is:

25 (i) Employing or using, or threatening or attempting  
26 to employ or use, a deadly weapon; or

27 (ii) Being armed with a deadly weapon; or

28 (iii) Possessing a deadly weapon; or

29 (iv) Furnishing a deadly weapon; or

30 (v) Carrying a deadly weapon.

31 (f) *The offense was a sexual offense and was part of a*  
32 *pattern of criminal behavior with the same or different victims under the age*  
33 *of eighteen (18) years manifested by multiple incidents over a prolonged*  
34 *period of time.*

35 (g) The operation of the multiple offense policy results in



1 a presumptive sentence that is clearly too lenient in light of the purpose of  
2 this chapter.

3

4           (h) *the offense was committed in a manner that exposed risk*  
5 *of injury to individuals other than the victim or victims e.g. shooting into a*  
6 *crowd.*

7           (i) *The offense was a violent or sexual offense committed*  
8 *in the victim's zone of privacy, e.g. their home or the curtilage thereof.*

9           (j) *The offender attempts to cover the offense by*  
10 *intimidation of witnesses, destruction or tampering with evidence, purposely*  
11 *misleading authorities, or the offense was committed for the purpose of*  
12 *avoiding or preventing an arrest or effecting an escape from custody.*

13           (k) *In offenses related to vehicular homicides, the*  
14 *offender does not have the minimum insurance required by law.*

15           (D) *This section shall not apply when a jury has recommended a sentence*  
16 *to the trial judge.*

17

18           SECTION 4. The Arkansas Sentencing Commission.

19           (A) Purpose of the Commission: There is hereby created the Arkansas  
20 Sentencing Commission, the purpose of which is to evaluate the effect of  
21 sentencing laws, policies, and practices on the criminal justice system; to  
22 make appropriate and necessary revision to the sentencing standards; and to  
23 make recommendations to the legislature on proposed changes of sentencing  
24 laws, policies and practices.

25           (B) Powers and Duties: In furtherance of its purpose, the Commission  
26 shall have the following powers and duties:

27           (1) *The Commission shall adopt an initial 'Sentencing Grid' and*  
28 *'Seriousness Reference Table' based upon the statutory parameters and*  
29 *additional data and information gathered prior to the effective date of these*  
30 *standards, January 1, 1994. The Commission shall also set the percentage of*  
31 *time within parameters set by law to be served for offenses at each*  
32 *seriousness level prior to any type of transfer or release.*

33           (2) The Commission shall periodically review and may revise the  
34 voluntary sentencing standards. Any revision of the standards shall be in  
35 compliance with provisions applicable to rule making contained in A.C.A. 25-

1 15-201 et seq., the Arkansas Administrative Procedures Act. Any revision of  
2 the standards shall become effective as provided by the *Administrative*  
3 *Procedures Act*. The revised standards will be in effect unless modified by  
4 the General Assembly at its next session or until revised again by the  
5 Sentencing Commission. Any revisions by the Sentencing Commission shall be  
6 within the statutory parameters set for the various crime classes.

7           (3) *The Commission may review and make recommendations for*  
8 *revision of the Community Punishment Act Target Group to the Arkansas General*  
9 *Assembly such that non-violent offenses and offenders are routinely handled in*  
10 *community punishment programs.*

11           (4) The Sentencing Commission shall be in charge of strategic  
12 planning for a balanced correctional plan for the State. The Commission shall  
13 develop such a plan in conjunction with the Board of Correction and Community  
14 Punishment. The Commission shall monitor compliance with sentencing  
15 standards, assess their impact on the correctional resources of the State with  
16 the assistance of the Board of Correction and Community Punishment and  
17 determine if the standards further the adopted sentencing policy goals of the  
18 State.

19           (5) The Commission may review the classifications of crimes and  
20 sentences and make recommendations for change when supported by information  
21 that change is advisable to further the adopted sentencing policy goals of the  
22 State.

23           (6) The Commission shall develop a research and analysis system to  
24 determine the feasibility, impact on resources and budget consequences of any  
25 proposed or *existing* legislation affecting sentence length. The Commission  
26 shall prepare and submit to the legislature a report on any such legislation  
27 prior to its adoption.

28           (7) All courts having criminal jurisdiction of felony crimes shall  
29 provide to the Sentencing Commission in a timely manner all information deemed  
30 necessary by the Commission. Such information shall be in the form determined  
31 necessary by the Commission. The Commission shall have the authority to  
32 collect from any state or local governmental entity information, data in  
33 electronic or in other useable form, reports, statistics or such other  
34 material which relates to sentencing laws, policies and practices; or impacts  
35 on correctional resources; or is necessary to carry out the Commission's

1 functions. The Commission may coordinate its data collection with the  
2 Administrative Office of the Courts, the Arkansas Crime Information Center,  
3 the various circuit clerks of the state, and the various state and local  
4 correctional agencies.

5 (C) Composition of Commission: The Commission shall be composed of *nine*  
6 voting members and two advisory members. The advisory members shall be the  
7 current chairs of the Senate and House Judiciary Committees. The voting  
8 members of the Commission shall be composed of:

- 9 (1) three (3) circuit court judges;  
10 (2) two (2) prosecuting attorneys;  
11 (3) two (2) public defenders or private attorneys whose practice  
12 *consist primarily of criminal defense work;*  
13 (4) *two (2) private citizen members.*

14 (D) Appointment, Terms and Expenses of the Commission:

15 (1) The Governor shall appoint the voting members of the  
16 Commission. The Governor shall select a chairman to serve at his will.

17 (2) All voting members shall serve for a term of five years,  
18 unless they resign or are removed. *Members shall serve until their*  
19 *replacements are appointed.* Vacancies occurring before the expiration of a  
20 term shall be filled in the manner provided for members first appointed.

21 (3) The initial terms of the voting members of the Commission are  
22 *to be staggered over five (5) years. Subsequently, appointment for a single*  
23 *member will be made in 1994, and two (2) members appointed in 1995, 1996,*  
24 *1997, and 1998.*

25 (4) *Members of the Arkansas Sentencing Commission who are eligible*  
26 *for per diem shall be entitled to sixty dollars (\$60.00) per day for each day*  
27 *they shall be engaged in attending official Commission meetings for Arkansas*  
28 *Sentencing Commission business. In addition thereto, each member shall be*  
29 *entitled to receive reimbursement for actual and necessary meals and lodging*  
30 *expenses. Mileage shall be reimbursed at the same rate authorized by the*  
31 *state travel regulations for state employees for each mile traveled in going*  
32 *to official meetings and business of the Commission from their place of*  
33 *residence or business and returning therefrom. The reimbursement for use of*  
34 *private airplanes shall be in accordance with state travel regulations.*

35 (E) Meetings and Report:

1           (1) The Commission shall hold its initial meeting within forty-  
2 five (45) days of the effective date of this act and shall meet no less than  
3 quarterly.

4           (2) The Commission shall submit to the Governor, General Assembly  
5 and the Judicial Council a biennial report three months prior to the convening  
6 of the next regularly scheduled legislative session. The report shall include  
7 a summary of the Commission proceedings and recommendations for legislative  
8 and administrative action.

9           (F) Staff: The Commission shall employ an executive director from  
10 candidates presented to it by the Chairman. The executive director shall have  
11 appropriate training and experience to assist the Commission in the  
12 performance of its duties. The executive director shall be responsible for  
13 compiling the work of the Commission and drafting suggested legislation  
14 incorporating the Commission's findings for submission to the General  
15 Assembly.

16           Subject to the approval of the Chairman, the executive director shall  
17 employ such other staff and shall contract for services as is necessary to  
18 assist the Commission in the performance of its duties, and as funds permit.

19  
20           SECTION 5. Arkansas Code Annotated 5-4-104(e)(1) is amended to read as  
21 follows:

22           "(e)(1) The court shall not suspend imposition of sentence as to a term  
23 of imprisonment nor place the defendant on probation for the following  
24 offenses:

25                           (A) Capital murder;

26                           (B) Treason;

27                           (C) Class Y felonies, except to the extent suspension of an  
28 additional term of imprisonment is permitted in subsection (c) of this  
29 section;

30                           (D) Driving while intoxicated;

31                           (E) Murder in the second degree, except to the extent  
32 suspension of an additional term of imprisonment is permitted in subsection  
33 (c) of this section;

34                           (F) *Engaging in a continuing criminal enterprise.*

35           In other cases, the court may suspend imposition of sentence or place

1 the defendant on probation, in accordance with §§ 5-4-301 - 5-4-311, except as  
2 otherwise specifically prohibited by statute. The court may not suspend  
3 execution of sentence."

4

5 SECTION 6. Arkansas Code Annotated 5-4-304 is amended effective *January*  
6 1, 1994 to read as follows:

7 "5-4-304. Confinement as condition of suspension or probation.

8 (a) If the court suspends the imposition of sentence on a defendant or  
9 places him on probation, it may require, as an additional condition of its  
10 order, that the defendant serve a period of confinement in the county jail,  
11 city jail, or other authorized local detentional, correctional, or  
12 rehabilitative facility, at whatever time or consecutive or nonconsecutive  
13 intervals within the period of suspension or probation as the court shall  
14 direct.

15 (b) An order that the defendant serve a period of confinement as a  
16 condition of suspension or probation shall not be deemed a sentence to a term  
17 of imprisonment and the court need not enter a judgment of conviction before  
18 imposing such a condition.

19 (c) The period actually spent in confinement pursuant to this section  
20 shall not exceed one hundred twenty (120) days in the case of a felony or  
21 thirty (30) days in the case of a misdemeanor. For purposes of this  
22 subsection, any part of a twenty-four (24) hour period spent in confinement  
23 shall constitute a day of confinement.

24 (d) If the suspension or probation of the defendant is subsequently  
25 revoked and the defendant is sentenced to a term of imprisonment, the period  
26 actually spent in confinement pursuant to this section shall be credited  
27 against the subsequent sentence."

28

29 SECTION 7. Arkansas Code Annotated 5-4-501 is amended *effective July 1,*  
30 1993 to read as follows:

31 "5-4-501. Habitual offenders - Sentencing for felony.

32 (a) A defendant who is convicted of a felony committed after June 30,  
33 1983, and who has previously been convicted of more than one (1) but less than  
34 four (4) felonies, or who has been found guilty of more than one (1) but less  
35 than four (4) felonies, may be sentenced to an extended term of imprisonment

1 as follows:

2 (1) For a conviction of a Class Y felony, a term of not less than  
3 ten (10) years nor more than sixty (60) years, or life;

4 (2) For a conviction of a Class A felony, a term of not less than  
5 six (6) years nor more than fifty (50) years;

6 (3) For a conviction of a Class B felony, a term of not less than  
7 five (5) years nor more than thirty (30) years;

8 (4) For a conviction of a Class C felony, a term of not less than  
9 three (3) years nor more than twenty (20) years;

10 (5) For a conviction of a Class D felony, a term of not more than  
11 twelve (12) years;

12 (6) For a conviction of an unclassified felony punishable by less  
13 than life imprisonment, not more than five (5) years more than the maximum  
14 sentence for the unclassified offense;

15 (7) For a conviction of an unclassified felony punishable by life  
16 imprisonment, not less than ten (10) years nor more than fifty (50) years, or  
17 life.

18 (b) A defendant who is convicted of a felony committed after June 30,  
19 1983, and who has previously been convicted of four (4) or more felonies or  
20 who has been found guilty of four (4) or more felonies, may be sentenced to an  
21 extended term of imprisonment as follows:

22 (1) For a conviction of a Class Y felony, a term of not less than  
23 ten (10) years nor more than life;

24 (2) For a conviction of a Class A felony, a term of not less than  
25 six (6) years nor more than sixty (60) years;

26 (3) For a conviction of a Class B felony, a term of not less than  
27 five (5) years nor more than forty (40) years;

28 (4) For a conviction of a Class C felony, a term of not less than  
29 three (3) years nor more than thirty (30) years;

30 (5) For a conviction of a Class D felony, a term of not more than  
31 fifteen (15) years;

32 (6) For a conviction of an unclassified felony punishable by less  
33 than life imprisonment, not more than twice the maximum sentence for the  
34 unclassified offense;

35 (7) For a conviction of an unclassified felony punishable by life

1 imprisonment, not less than ten (10) years nor more than fifty (50) years, or  
2 life.

3 (c) For the purpose of determining whether a defendant has previously  
4 been convicted or found guilty of two (2) or more felonies, a conviction or  
5 finding of guilt of burglary and of the felony that was the object of the  
6 burglary shall be considered a single felony conviction or finding of guilt. A  
7 conviction or finding of guilt of an offense that was a felony under the law  
8 in effect prior to January 1, 1976, shall be considered a previous felony  
9 conviction or finding of guilt."

10

11

12 SECTION 8. Arkansas Code Annotated 12-30-407 is amended effective  
13 January 1, 1994 to read as follows:

14 "12-30-407. Housing of participants.

15 (a) (1) The Board of Correction and Community Punishment may promulgate  
16 rules and regulations to allow the proper classification of inmates to be  
17 released to the sheriff of approved jail facilities or Community Punishment  
18 Centers outside the Department of Correction. Such inmates are to work at  
19 jobs that directly benefit those facilities and are to be under supervision at  
20 all times.

21 (2) Inmates so released shall be entitled to credit on their  
22 sentences under the meritorious classification system of the Department of  
23 Correction.

24 (b) The number of persons on prerelease and work-release programs of  
25 the Department of Correction that may be housed at the Benton Services Center  
26 shall not exceed two hundred twenty-five (225). Provided, with the approval  
27 of the State Hospital Board and the Administrator of the Benton Services  
28 Center, a maximum of three hundred twenty-five (325) persons on prerelease and  
29 work-release programs may be housed at the center."

30

31 SECTION 9. Arkansas Code Annotated §§ 5-4-104(e)(4), 5-4-505, 5-4-506,  
32 16-93-801, 16-93-802, 16-93-803, 16-93-804, 16-93-805, and 16-93-806 are  
33 repealed effective January 1, 1994.

34

35 SECTION 10. All provisions of this act of a general and permanent

1 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
2 Code Revision Commission shall incorporate the same in the Code.

3

4 SECTION 11. If any provision of this act or the application thereof to  
5 any person or circumstance is held invalid, such invalidity shall not affect  
6 other provisions or applications of the act which can be given effect without  
7 the invalid provision or application, and to this end the provisions of this  
8 act are declared to be severable.

9

10 SECTION 12. All laws and parts of laws in conflict with this act are  
11 hereby repealed.

12

13 SECTION 13. EMERGENCY. It is hereby found and determined by the  
14 General Assembly of the State of Arkansas that the sentencing policies and  
15 standards of the State of Arkansas are in need of immediate reform in order to  
16 *better provide for a balanced correctional system and to better effectuate the*  
17 *rehabilitation of persons convicted of crimes and to make possible their*  
18 *return as useful members of the community and passage of this act is necessary*  
19 *to facilitate these reforms. Therefore, an emergency is hereby declared to*  
20 *exist and this act being necessary for the immediate preservation of the*  
21 *public peace, health, and safety, shall be in full force and effect, unless*  
22 *provided for otherwise herein, from and after its passage and approval.*

23

*/s/ Senator Everett, et al.*

24

25

26

Approved: 3/16/93