

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 2097 of the Regular Session

As Engrossed: S2/2/05 S2/24/05 H4/7/05

A Bill

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

SENATE BILL 205

4  
5 By: Senators Faris, Lavery, Hill  
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8 **For An Act To Be Entitled**

9 AN ACT TO ESTABLISH THAT THE TIME LIMIT FOR  
10 FILING APPLICATIONS FOR EXECUTIVE CLEMENCY BEGINS  
11 RUNNING ON THE DATE OF FILING OF THE APPLICATION  
12 RATHER THAN THE DATE OF DENIAL OF THE  
13 APPLICATION; TO ALLOW THE POST PRISON TRANSFER  
14 BOARD TO WAIVE THE WAITING PERIOD UNDER CERTAIN  
15 CIRCUMSTANCES; AND FOR OTHER PURPOSES.  
16

17 **Subtitle**

18 AN ACT TO CHANGE PROCEDURES CONCERNING  
19 APPLICATIONS FOR EXECUTIVE CLEMENCY.  
20  
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code § 5-4-607(d), pertaining to the time  
25 limitation for filing an application for pardon or commutation, is amended to  
26 read as follows:

27 (d)(1) ~~Any~~ Except as provided in subdivision (d)(3) of this section,  
28 any person who has been convicted of capital murder, § 5-10-101, or of any  
29 Class Y or Class A felony, excluding nonviolent offenses under the Uniform  
30 Controlled Substances Act, § 5-64-101 et seq., and who makes an application  
31 shall not be eligible to reapply for a period of four (4) years after the  
32 date of filing of the application that was denied, except that a person whose  
33 application was denied by the Governor after receiving a majority vote by the  
34 Post Prison Transfer Board in favor of the application is eligible to reapply  
35 one (1) year after the date the application was denied by the Governor.



1           (2) ~~Applications made prior to July 30, 1999, shall be included~~  
 2 ~~in determining whether a person is eligible to reapply~~ Any person who made an  
 3 application for pardon or commutation that was denied on or after July 1,  
 4 2004, shall be eligible to reapply for pardon or commutation four (4) years  
 5 after the date of filing of the application that was denied.

6           ~~(3)(A) Applications pending on July 30, 1999, that do not meet~~  
 7 ~~the requirements of this subdivision (a)(4) shall be dismissed.~~

8           ~~(B) Applications dismissed under this subdivision~~  
 9 ~~(a)(4)(C) shall not be included in determining future eligibility.~~

10           (3)(A) The Post Prison Transfer Board may waive the waiting  
 11 period for filing a new application for pardon or commutation described in  
 12 subdivision (d)(1) of this section if:

13                   (i) It has been at least twelve (12) months after  
 14 the date of the filing of the application that was denied; and

15                   (ii) The Post Prison Transfer Board determines that  
 16 the person whose application was denied has established that:

17                           (a) New material evidence relating to the person's  
 18 guilt or punishment has been discovered;

19                           (b) The person's physical or mental health has  
 20 substantially deteriorated; or

21                           (c) Other meritorious circumstances justify a waiver  
 22 of the waiting period.

23                   (B)(i) The Board of Corrections shall promulgate rules  
 24 that will establish policies and procedures for waiver of the waiting period.

25                           (ii) The Board of Corrections may make additions,  
 26 amendments, changes, or alterations to the rules in accordance with the  
 27 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

28  
 29           SECTION 2. Arkansas Code § 16-93-207(c), pertaining to the time  
 30 limitation for filing an application for pardon or commutation, is amended to  
 31 read as follows:

32           (c)(1)(A) If Except as provided in subdivision (c)(3) of this section,  
 33 if an application for pardon, commutation of sentence, or remission of fine  
 34 or forfeiture is denied in writing by the Governor, the person filing the  
 35 application shall not be eligible to file a new application for pardon,  
 36 commutation of sentence, or remission of fine or forfeiture related to the

1 same offense for a period of *four (4) years* from the date of filing of the  
2 application that was ~~denial~~ denied.

3 (B) Any person who made an application for pardon,  
4 commutation of sentence, or remission of fine or forfeiture that was denied  
5 on or after July 1, 2004, shall be eligible to file a new application *four*  
6 *(4) years* after the date of filing of the application that was denied.

7 (2) If an application for pardon, commutation of sentence, or  
8 remission of fine or forfeiture is deemed denied by the Governor pursuant to  
9 subsection (b) of this section, the person filing the application may  
10 immediately file a new application for pardon, commutation of sentence, or  
11 *remission of fine or forfeiture related to the same offense.*

12 (3)(A) The Post Prison Transfer Board may waive the waiting  
13 period for filing a new application for pardon, commutation of sentence, or  
14 remission of fine or forfeiture described in subdivision (c)(1)(A) of this  
15 section if:

16 (i) It has been at least twelve (12) months after  
17 the date of the filing of the application that was denied; and

18 (ii) The Post Prison Transfer Board determines that  
19 the person whose application was denied has established that:

20 (a) New material evidence relating to the person's  
21 guilt or punishment has been discovered;

22 (b) The person's physical or mental health has  
23 substantially deteriorated; or

24 (c) Other meritorious circumstances justify a waiver  
25 of the waiting period.

26 (B)(i) The Board of Corrections shall promulgate rules  
27 that will establish policies and procedures for waiver of the waiting period.

28 (ii) The Board of Corrections may make additions,  
29 amendments, changes, or alterations to the rules in accordance with the  
30 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

31  
32 /s/ Faris, et al

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35 APPROVED: 4/13/2005

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