

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

As Engrossed: S3/11/15

# A Bill

SENATE BILL 46

5 By: Senator J. Hutchinson  
6

## For An Act To Be Entitled

8 *AN ACT TO PROVIDE FOR EXTENDED SUPERVISION FOR*  
9 *CERTAIN SEX OFFENDERS WHO WILL BE ELIGIBLE FOR*  
10 *PAROLE, RELEASED FROM PROBATION, OR WILL BE RELEASED*  
11 *FROM THE ARKANSAS STATE HOSPITAL.*

### Subtitle

12  
13  
14  
15 *TO PROVIDE FOR EXTENDED SUPERVISION FOR*  
16 *CERTAIN SEX OFFENDERS WHO WILL BE*  
17 *ELIGIBLE FOR PAROLE, RELEASED FROM*  
18 *PROBATION, OR WILL BE RELEASED FROM THE*  
19 *ARKANSAS STATE HOSPITAL.*

20  
21  
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 *SECTION 1. Arkansas Code Title 5, Chapter 4, Subchapter 1, is amended*  
25 *to add an additional section to read as follows:*

26 *5-4-107. Extended supervision and monitoring for certain sex*  
27 *offenders.*

28 *(a)(1) The Department of Correction within one hundred twenty (120)*  
29 *days before the release on parole of a person who is required to register as*  
30 *a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901*  
31 *et seq., shall notify in writing the prosecuting attorney in the judicial*  
32 *district in which the person was sentenced of the person's impending release*  
33 *on parole.*

34 *(2) The Department of Community Correction within one hundred*  
35 *twenty (120) days before the release from probation of a person who is*  
36 *required to register as a sex offender under the Sex Offender Registration*



1 Act of 1997, § 12-12-901 et seq., shall notify in writing the prosecuting  
2 attorney in the judicial district in which the person was sentenced of the  
3 person's impending release from probation.

4 (3) The Arkansas State Hospital within thirty (30) days before  
5 the release from inpatient treatment of a person who was acquitted of a sex  
6 offense by reason of mental disease or defect or who is required to register  
7 as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-  
8 901 et seq., shall notify in writing the prosecuting attorney in the judicial  
9 district in which the person was committed of the person's impending release  
10 from inpatient treatment.

11 (b)(1) The prosecuting attorney may file a petition in the circuit  
12 court requesting that the person to be released from incarceration,  
13 probation, or inpatient treatment be subject to an extended period of  
14 supervision and monitoring and alleging that the extended period of  
15 supervision and monitoring is necessary because the person poses a serious  
16 risk to the public and that there is a likelihood that the person would  
17 commit additional criminal offenses.

18 (2) A copy of the petition and any supporting documents shall be  
19 served by the prosecuting attorney on the person in accordance with the  
20 Arkansas Rules of Civil Procedure.

21 (3) If a hearing is requested, it shall be held at the earliest  
22 practicable time and at a time and on a date that would accommodate the  
23 transport of the person from a Department of Correction facility, Department  
24 of Community Correction facility, or the Arkansas State Hospital to the  
25 appropriate circuit court.

26 (c)(1)(A) A person subject to a petition for extended supervision and  
27 monitoring filed under this section shall be represented by an attorney if  
28 the person requests to be represented by an attorney.

29 (B) If the person requests an attorney, the circuit court  
30 shall conduct a hearing to consider the appointment of an attorney to  
31 represent the person.

32 (2)(A) The person subject to a petition for extended supervision  
33 and monitoring filed under this section shall be present at the hearing on  
34 the petition.

35 (B)(i) At the hearing the circuit court shall inform the  
36 person of the existence of possible relief under the Arkansas Rules of

1 Criminal Procedure or as provided by law and shall determine whether the  
2 person desires the appointment of an attorney to represent him or her in  
3 proceedings under this section.

4 (ii) If the person waives the appointment of an  
5 attorney, the waiver shall be made in open court on the record.

6 (iii) If the circuit court determines that the  
7 person is indigent and that he or she either accepts the appointment of an  
8 attorney or is unable to make a competent decision whether to accept or  
9 reject an attorney, the circuit court shall issue written findings to that  
10 effect and enter a written order appointing an attorney to represent the  
11 person in proceedings under this section.

12 (iv) If the circuit court determines that the person  
13 waives the appointment of an attorney and understands the legal consequences  
14 of his or her decision, or that the person is not indigent, the circuit court  
15 shall issue written findings to that effect and enter a written order  
16 declining to appoint an attorney to represent the person in proceedings under  
17 this section.

18 (v) In determining whether the person is indigent,  
19 the circuit court shall consider the cost of postconviction proceedings for  
20 persons subject to extended supervision and monitoring under this section.

21 (d)(1) If the circuit court finds by a preponderance of the evidence  
22 that the person about to be released from incarceration, probation, or  
23 inpatient treatment poses a serious risk to the public and that there is a  
24 likelihood that the person would commit additional criminal offenses, the  
25 court may order that the person be subject to an extended period of  
26 supervision and monitoring for a period of up to fifteen (15) years.

27 (2)(A) A court order of extended supervision and monitoring  
28 under this subsection may be renewed at any time prior to the expiration of  
29 the order on the circuit court's own order but only after another hearing and  
30 subsequent findings.

31 (B) A person subject to extended supervision and  
32 monitoring under this section is entitled to notice of and to attend the  
33 hearing on the renewal, as well as being entitled to contest the renewal of  
34 the order of extended supervision and monitoring.

35 (e)(1) A person who is subject to extended supervision and monitoring  
36 under this section may file a petition to be relieved of the order of

1 extended supervision and monitoring after five (5) years have elapsed since  
2 the date of the original order.

3 (2) The prosecuting attorney is entitled to notice of a petition  
4 filed under this subsection and to a hearing on the petition.

5 (3) The circuit court shall rescind the order for extended  
6 supervision and monitoring if the person proves by clear and convincing  
7 evidence that he or she no longer poses a serious risk to the public and  
8 there is no longer a likelihood that the person would commit additional  
9 criminal offenses.

10 (4) If a petition filed under this subsection is denied, the  
11 person may not file another petition under this subsection until five (5)  
12 years have elapsed since the date of the order of denial.

13 (f) An appeal of the grant or denial of a petition filed under this  
14 section may be taken by either party as provided by Supreme Court rule, and  
15 the appellate court shall review the case using an abuse of discretion  
16 standard.

17 (g) An order for extended supervision and monitoring under this  
18 section may include the requirement that the person wear an ankle monitor or  
19 other electronic device designed to track the person's movements at all  
20 times.

21 (h) The Department of Community Correction shall administer any  
22 extended supervision and monitoring under this section and may adopt rules to  
23 implement this section.

24  
25 /s/J. Hutchinson  
26

27  
28 **APPROVED: 04/02/2015**  
29  
30  
31  
32  
33  
34  
35  
36