

HOUSE AMENDMENT 1 TO hb1890.

deleting line 5 on page 1 and substituting the following:

"By: Representatives Hale and Ferrell"

AND

by inserting "except under § 16-93-1302" on line 24 on page 3 between "eligibility" and "of"

AND

by deleting lines 5 through 12 on page 4 and substituting the following:

~~"(3) (A) After reaching the verdict of guilty on a serious felony involving violence, the same jury or the same judge sitting without a jury shall sit again in order to hear additional evidence determined pursuant to the procedures outlined in § 5-4-502, and if it is then determined beyond a reasonable doubt that in fact the defendant has previously pleaded guilty or nolo contendere to, or been found guilty of, a prior serious felony involving violence, then the defendant shall be sentenced in accordance with the provisions of subdivision (c)(1) of this section.~~

(3) (A) The following procedure shall govern trials at which a sentence to an extended term of imprisonment is sought pursuant to 5-4-501(c):

(1) The jury shall first hear all evidence relevant to the serious felony involving violence with which defendant is currently charged and shall retire to reach a verdict of guilt or innocence on this charge.

(2) If the defendant is found guilty of the serious felony involving violence, the trial court, out of the hearing of the jury, shall hear evidence of whether the defendant has pleaded guilty, nolo contendere, or been found guilty of, a prior serious felony involving violence and shall determine the number of such prior felony convictions, if any. Defendant shall have the right to hear and controvert this evidence and to offer evidence in his support.

(3) The trial court shall then instruct the jury as to the number of previous convictions for serious felonies involving violence and the statutory sentencing range. The jury may be advised as to the nature of the previous convictions and the date and place thereof.

(4) The jury shall retire again and then determine a sentence within the statutory range."

AND

by inserting "except under § 16-93-1302" on line 22 on page 4 between "eligibility" and "for"

AND

by deleting lines 6 through 13 on page 6 and substituting the following:

~~"(3) (A) After reaching the verdict of guilty on a felony involving violence, the same jury or the same judge sitting without a jury shall sit again in order to hear additional evidence determined pursuant to the procedures outlined in § 5-4-502, and if it is then determined beyond a reasonable doubt that in fact the defendant has previously pleaded guilty or nolo contendere to, or been found guilty of, two (2) or more prior felonies involving violence, then the defendant shall be sentenced in accordance with the provisions of subdivision (d)(1) of this section.~~

(3) (A) The following procedure shall govern trials at which a sentence to an extended term of imprisonment is sought pursuant to 5-4-501(d):

(1) The jury shall first hear all evidence relevant to the felony involving violence with which defendant is currently charged and shall retire to reach a verdict of guilt or innocence on this charge.

(2) If the defendant is found guilty of the felony involving violence, the trial court, out of the hearing of the jury, shall hear evidence of whether the defendant has pleaded guilty, nolo contendere, or been found guilty of, two or more prior felonies involving violence and shall determine the number of such prior felony convictions, if any. Defendant shall have the right to hear and controvert this evidence and to offer evidence in his support.

(3) The trial court shall then instruct the jury as to the number of previous convictions involving violence and the statutory sentencing range. The jury may be advised as to the nature of the previous convictions and the date and place thereof.

(4) The jury shall retire again and then determine a sentence within the statutory range."

AND

by inserting an additional section immediately following Section 1 to read as follows:

"SECTION 2. Arkansas Code 16-93-611 is amended to read as follows:

§ 16-93-611. Class Y felonies.

Notwithstanding any law allowing the award of meritorious good time or any other law to the contrary, any person who is found guilty of or who pleads guilty or nolo contendere to murder in the first degree, § 5-10-102, kidnapping, Class Y felonies, § 5-11-102, aggravated robbery, § 5-12-103, rape,

§ 5-14-103, and causing a catastrophe, § 5-38-202(a), shall not be eligible for parole or community punishment transfer until the person serves seventy percent (70%) of the term of imprisonment, including a sentence prescribed under Arkansas Code § 5-4-501, to which the person is sentenced."

AND

by appropriately renumbering the subsequent section of the bill.