

2 State of Arkansas
3 94th General Assembly
4 Regular Session, 2023

A Bill

SENATE BILL 579

5
6 By: Senator G. Leding

7 Filed with: Senate Committee on Judiciary
8 pursuant to A.C.A. §10-3-217.

9 For An Act To Be Entitled

10 AN ACT CONCERNING THE SENTENCING OF A PERSON WHO
11 COMMITTED AN OFFENSE BEFORE HE OR SHE TURNED TWENTY-
12 ONE (21) YEARS OF AGE; AND FOR OTHER PURPOSES.

13 Subtitle

14 CONCERNING THE SENTENCING OF A PERSON WHO
15 COMMITTED AN OFFENSE BEFORE HE OR SHE
16 TURNED TWENTY-ONE (21) YEARS OF AGE.

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

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23 SECTION 1. Arkansas Code § 5-4-104(b), concerning authorized
24 sentences, is amended to read as follows:

25 (b) A defendant convicted of capital murder, § 5-10-101, or treason, §
26 5-51-201, shall be sentenced to death or life imprisonment without parole in
27 accordance with §§ 5-4-601 – 5-4-605, 5-4-607, and 5-4-608, except if the
28 defendant was younger than ~~eighteen (18)~~ twenty-one (21) years of age at the
29 time he or she committed the capital murder or treason he or she shall be
30 sentenced to life imprisonment with the possibility of parole after serving a
31 minimum of thirty (30) years' imprisonment.

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33 SECTION 2. Arkansas Code § 5-4-108 is amended to read as follows:
34 5-4-108. Sentencing for person who committed an offense when he or she
35 was less than ~~18~~ 21 years of age.

1 A defendant shall not be sentenced to death or life imprisonment
2 without the possibility of parole for an offense if the defendant was less
3 than ~~eighteen (18)~~ twenty-one (21) years of age at the time the offense was
4 committed.

5
6 SECTION 3. Arkansas Code § 5-4-602(3)(C), concerning trial procedure
7 for a capital felony charge, is amended to read as follows:

8 (C) If the defendant was less than ~~eighteen (18)~~ twenty-
9 one (21) years of age at the time of the offense, then a hearing under
10 subdivision (3)(A) of this section is not required;

11
12 SECTION 4. Arkansas Code § 5-10-101(c)(1), concerning capital murder,
13 is amended to read as follows:

14 (c)(1) Capital murder is punishable as follows:

15 (A) If the defendant was ~~eighteen (18)~~ twenty-one (21)
16 years of age or older at the time he or she committed the capital murder:

17 (i) Death; or

18 (ii) Life imprisonment without parole under §§ 5-4-
19 601 – 5-4-605, 5-4-607, and 5-4-608; or

20 (B) If the defendant was younger than ~~eighteen (18)~~
21 twenty-one (21) years of age at the time he or she committed the capital
22 murder, life imprisonment with the possibility of parole after serving a
23 minimum of thirty (30) years' imprisonment.

24
25 SECTION 5. Arkansas Code § 5-10-102(c)(2), concerning murder in the
26 first degree, is amended to read as follows:

27 (2) Unless the application of § 16-93-621 results in a person's
28 being eligible for parole at an earlier date, if a person was younger than
29 ~~eighteen (18)~~ twenty-one (21) years of age at the time he or she committed
30 murder in the first degree and is sentenced to life imprisonment, the person
31 is eligible for parole after serving a minimum of twenty-five (25) years'
32 imprisonment.

33
34 SECTION 6. Arkansas Code § 16-93-612(e)(4), concerning the date of
35 offense for parole eligibility, is amended to read as follows:

1 (4) If the felony was committed by a person who was ~~a minor~~
2 younger than twenty-one (21) years of age at the time of the offense, he or
3 she was committed to the Department of Correction, or to the division, and
4 the offense occurred before, on, or after ~~March 20, 2017~~ the effective date
5 of this act, § 16-93-621 governs that person's parole eligibility.
6

7 SECTION 7. Arkansas Code § 16-93-613(c), concerning parole eligibility
8 for Class Y, Class A, and Class B felonies, is amended to read as follows:

9 (c) Except as provided for under § 16-93-621, for an offense committed
10 before, on, or after ~~March 20, 2017~~ the effective date of this act, a person
11 who was ~~a minor~~ younger than twenty-one (21) years of age at the time of
12 committing an offense listed under subsection (a) of this section is eligible
13 for release on parole under this section.
14

15 SECTION 8. Arkansas Code § 16-93-614(d), concerning parole eligibility
16 for offenses committed after January 1, 1994, is amended to read as follows:

17 (d) Except as provided for under § 16-93-621, for an offense committed
18 before, on, or after ~~March 20, 2017~~ the effective date of this act, a person
19 who was ~~a minor~~ younger than twenty-one (21) years of age at the time of
20 committing an offense listed under subsection (c) of this section is eligible
21 for release on parole under this section.
22

23 SECTION 9. Arkansas Code § 16-93-618(f), concerning parole eligibility
24 for certain Class Y felony offenses and certain methamphetamine offenses and
25 the serving of seventy percent 70% of a person's sentence, is amended to read
26 as follows:

27 (f) Except as provided for under § 16-93-621, for an offense committed
28 before, on, or after ~~March 20, 2017~~ the effective date of this act, a person
29 who was ~~a minor~~ younger than twenty-one (21) years of age at the time of
30 committing an offense listed under subsection (a) of this section is eligible
31 for release on parole under this section.
32

33 SECTION 10. Arkansas Code § 16-93-621 is amended to read as follows:

34 16-93-621. Parole eligibility – A person who was ~~a minor~~ younger than
35 twenty-one (21) years of age at the time of committing an offense that was
36 committed before, on, or after ~~March 20, 2017~~ the effective date of this act.

1 (a)(1)(A) A ~~minor~~ person younger than twenty-one (21) years of age who
2 was convicted and sentenced to the former Department of Correction or the
3 Division of Correction for an offense committed before he or she was ~~eighteen~~
4 ~~(18)~~ twenty-one (21) years of age and in which the death of another person
5 did not occur is eligible for release on parole no later than after twenty
6 (20) years of incarceration, including any applicable sentencing
7 enhancements, and including an instance in which multiple sentences are to be
8 served consecutively or concurrently, unless by law the ~~minor~~ person younger
9 than twenty-one (21) years of age is eligible for earlier parole eligibility.

10 (B) Subdivision (a)(1)(A) of this section applies
11 retroactively to ~~a minor~~ a person younger than twenty-one (21) years of age
12 whose offense was committed before he or she was ~~eighteen (18)~~ twenty-one
13 (21) years of age, including ~~a minor~~ a person younger than twenty-one (21)
14 years of age serving a sentence of life, regardless of the original sentences
15 that were imposed.

16 (2)(A) A ~~minor~~ person younger than twenty-one (21) years of age
17 who was convicted and sentenced to the department or the division for an
18 offense committed before he or she was ~~eighteen (18)~~ twenty-one (21) years of
19 age, in which the death of another person occurred, and that was committed
20 before, on, or after ~~March 20, 2017,~~ the effective date of this act is
21 eligible for release on parole no later than after twenty-five (25) years of
22 incarceration if he or she was convicted of murder in the first degree, § 5-
23 10-102, or no later than after thirty (30) years of incarceration if he or
24 she was convicted of capital murder, § 5-10-101, including any applicable
25 sentencing enhancements, unless by law the ~~minor~~ person younger than twenty-
26 one (21) years of age is eligible for earlier parole eligibility.

27 (B) Subdivision (a)(2)(A) of this section applies
28 retroactively to ~~a minor~~ a person younger than twenty-one (21) years of age
29 whose offense was committed before he or she was ~~eighteen (18)~~ twenty-one
30 (21) years of age, including ~~minors~~ persons younger than twenty-one (21)
31 years of age serving sentences of life, regardless of the original sentences
32 that were imposed.

33 (3) Credit for meritorious good time shall not be applied to
34 calculations of time served under this subsection for ~~minors~~ a person younger
35 than twenty-one (21) years of age convicted and sentenced for capital murder,

1 § 5-10-101(c), or when a life sentence is imposed for murder in the first
2 degree, § 5-10-102.

3 (4) The calculation of the time periods under this subsection
4 shall include any applicable sentence enhancements to which the ~~minor~~ person
5 younger than twenty-one (21) years of age was sentenced that accompany the
6 sentence for the underlying offense.

7 (b)(1) The Parole Board shall ensure that a hearing to consider the
8 parole eligibility of a person who was a ~~minor~~ younger than twenty-one (21)
9 years of age at the time of the offense that was committed before, on, or
10 after ~~March 20, 2017,~~ the effective date of this act takes into account how a
11 ~~minor offender~~ an offender younger than twenty-one (21) years of age is
12 different from an adult offender and provides a person who was a ~~minor~~
13 younger than twenty-one (21) years of age at the time of the offense that was
14 committed before, on, or after ~~March 20, 2017,~~ the effective date of this act
15 with a meaningful opportunity to be released on parole based on demonstrated
16 maturity and rehabilitation.

17 (2) During a parole eligibility hearing involving a person who
18 was a ~~minor~~ younger than twenty-one (21) years of age at the time of the
19 offense that was committed before, on, or after ~~March 20, 2017,~~ the effective
20 date of this act the board shall take into consideration in addition to other
21 factors required by law to be considered by the board:

22 (A) The diminished culpability of ~~minors~~ persons younger
23 than twenty (21) years of age as compared to that of adults;

24 (B) The hallmark features of youth;

25 (C) Subsequent growth and increased maturity of the person
26 during incarceration;

27 (D) Age of the person at the time of the offense;

28 (E) Immaturity of the person at the time of the offense;

29 (F) The extent of the person's role in the offense and
30 whether and to what extent an adult was involved in the offense;

31 (G) The person's family and community circumstances at the
32 time of the offense, including any history of abuse, trauma, and involvement
33 in the child welfare system;

34 (H) The person's participation in available rehabilitative
35 and educational programs while in prison, if those programs have been made
36 available, or use of self-study for self-improvement;

1 (I) The results of comprehensive mental health evaluations
2 conducted by an adolescent mental health professional licensed in the state
3 at the time of sentencing and at the time the person becomes eligible for
4 parole under this section; and

5 (J) Other factors the board deems relevant.

6 (3) A person eligible for parole under this section may have an
7 attorney present to represent him or her at the parole eligibility hearing.

8 (c)(1)(A) The board shall notify a victim of the crime before the
9 board reviews parole eligibility under this section for an inmate convicted
10 of the crime and provide information regarding victim input meetings, as well
11 as state and national victim resource information.

12 (B) If the victim is incapacitated or deceased, the notice
13 under subdivision (c)(1)(A) of this section shall be given to the victim's
14 family.

15 (C) If the victim is less than eighteen (18) years of age,
16 the notice under subdivision (c)(1)(A) of this section shall be given to the
17 victim's parent or guardian.

18 (2) Victim notification under this subsection shall include:

19 (A) The location, date, and time of parole review; and

20 (B) The name and phone number of the individual to contact
21 for additional information.

22
23 SECTION 11. Arkansas Code § 16-93-622 is amended to read as follows:

24 16-93-622. Parole discharge for offenders who are ~~minors~~ younger than
25 twenty-one (21) years of age – Reinstatement of rights.

26 (a) The Parole Board may discharge a person from parole if:

27 (1) The person:

28 (A) Was released on parole under § 16-93-621 for having
29 committed an offense ~~as a minor~~ before the person was twenty-one (21) years
30 of age; and

31 (B) Has served at least five (5) years on parole without a
32 violation; and

33 (2) The prosecuting attorney in the county where the person was
34 originally convicted has consented to the discharge of the person from
35 parole.

1 (b) Unless otherwise provided by Arkansas Constitution, Amendment 51,
2 a person who has been discharged from parole under subsection (a) of this
3 section shall have his or her constitutional right to vote restored.
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6 Referred requested by the Arkansas Senate

7 Prepared by: JLC/SJA
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