

1 **State of Arkansas**

2 **79th General Assembly**

3 **Regular Session, 1993**

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

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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

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Subtitle

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:

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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

1 economic status.

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

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15 SECTION 2. Voluntary Presumptive Standards.

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

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

1 consulting the "Offense Seriousness Reference Table". The seriousness level
2 for inchoate offenses is one level below the level for substantive offenses.

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

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

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

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

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

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

30 (5) Effect of passage of time -

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

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

35 (3) Felony offenses at levels I-V will not be counted if a

1 period of fifteen years has elapsed since the date of discharge from or
2 expiration of the sentence, to the date of the current offense.

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

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

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

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18 SECTION 3. Departures from the Standards.

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

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

1 agreement, the defendant shall be allowed to withdraw his plea.

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

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

11 (1) Mitigating factors:

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

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

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

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

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

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

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

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

35 (i) Upon motion of the State stating that the defendant has

1 made a good faith effort to provide substantial assistance to the
2 investigation or prosecution of another person who has committed an offense,
3 the circumstances listed below may be weighed as mitigating factors with
4 respect to the defendant's offense.

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

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

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

10 (2) Aggravating factors:

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

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

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

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

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

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

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

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

35 (d) The offense was a major controlled substance offense,

1 identified as an offense or series of offenses related to trafficking in
2 controlled substances under circumstances more onerous than the usual offense.
3 The presence of two or more of the circumstances listed below are aggravating
4 factors with respect to the offense:

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

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

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

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

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

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

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

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

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

29 (iii) Possessing a deadly weapon; or

30 (iv) Furnishing a deadly weapon; or

31 (v) Carrying a deadly weapon.

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

1 (g) The operation of the multiple offense policy results in
2 a presumptive sentence that is clearly too lenient in light of the purpose of
3 this chapter.

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

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

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

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

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

18

19 SECTION 4. The Arkansas Sentencing Commission.

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

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

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

34 (2) The Commission shall periodically review and may revise the
35 voluntary sentencing standards. Any revision of the standards shall be in

1 compliance with provisions applicable to rule making contained in A.C.A. 25-
2 15-201 et seq., the Arkansas Administrative Procedures Act. Any revision of
3 the standards shall become effective as provided by the *Administrative*
4 *Procedures Act*. The revised standards will be in effect unless modified by
5 the General Assembly at its next session or until revised again by the
6 Sentencing Commission. Any revisions by the Sentencing Commission shall be
7 within the statutory parameters set for the various crime classes.

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

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

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

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

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

1 on correctional resources; or is necessary to carry out the Commission's
2 functions. The Commission may coordinate its data collection with the
3 Administrative Office of the Courts, the Arkansas Crime Information Center,
4 the various circuit clerks of the state, and the various state and local
5 correctional agencies.

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

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

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

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

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

22 (3) The initial terms of the voting members of the Commission are
23 to be staggered over five (5) years. *Subsequently, appointment for a single*
24 *member will be made in 1994, and two (2) members appointed in 1995, 1996,*
25 *1997, and 1998.*

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

1 (E) Meetings and Report:

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

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

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

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

20

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

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

26 (A) Capital murder;

27 (B) Treason;

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

31 (D) Driving while intoxicated;

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

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

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

5

6 SECTION 6. Arkansas Code Annotated 5-4-304 is amended effective *January*
7 1, 1994 to read as follows:

8 "5-4-304. Confinement as condition of suspension or probation.

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

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

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

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

29

30 SECTION 7. Arkansas Code Annotated 5-4-501 is amended *effective July 1,*
31 1993 to read as follows:

32 "5-4-501. Habitual offenders - Sentencing for felony.

33 (a) A defendant who is convicted of a felony committed after June 30,
34 1983, and who has previously been convicted of more than one (1) but less than
35 four (4) felonies, or who has been found guilty of more than one (1) but less

1 than four (4) felonies, may be sentenced to an extended term of imprisonment
2 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 "12-30-407. Housing of participants.

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

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

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

31

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

35

1 SECTION 10. All provisions of this act of a general and permanent
2 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
3 Code Revision Commission shall incorporate the same in the Code.

4

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

10

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

13

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

24

/s/ Senator Everett, et al.