

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Scott**

A Bill

SENATE BILL 533

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 16-90-506 TO PROVIDE FOR A
9 MENTAL EVALUATION TO BE MADE WITHIN THE DEPARTMENT OF
10 CORRECTION WHEN A CONDEMNED FELON IS GRANTED A REPRIEVE OR
11 OTHER STAY OF SENTENCE; AND FOR OTHER PURPOSES."

Subtitle

14 "TO PROVIDE FOR MENTAL EVALUATION UNDER CERTAIN
15 CIRCUMSTANCES WHEN CONDEMNED FELON IS GRANTED A STAY OF
16 SENTENCE."

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

20 SECTION 1. Arkansas Code 16-90-506 is amended to read as follows:

21 "16-90-506. Reprieve, new trial, etc.

22 (a) (1) Should the condemned felon, while in the custody of the Director
23 of the Department of Correction, be granted a reprieve by the Governor or
24 obtain a writ of error from the Supreme Court or should the execution of the
25 sentence be stayed by any competent judicial proceeding, notice of the
26 reprieve or writ of error or stay of execution shall be served upon the
27 Director of the Department of Correction, as well as upon the condemned felon,
28 and the Director shall yield obedience to it.

29 (2) In any subsequent proceeding, the mandate of the court having
30 regard to the condemned felon shall be served upon the Director of the
31 Department of Correction as well as upon the felon.

32 (3) Should the felon be resentenced by the court, then the proceedings
33 shall be as provided under the original sentence.

34 (b) Should a new trial be granted the condemned felon after he has been
35 conveyed to the Department of Correction then he shall be conveyed back to the

1 place of trial as the Director may direct.

2 (c) The only officers who shall have the power of suspending the
3 execution of a judgment of death are the Governor; in cases of insanity or
4 pregnancy of the individual, the Director of the Department of Correction as
5 provided in subsection (d) of this section; and in cases of appeals, the Clerk
6 of the Supreme Court, as prescribed by law.

7 (d) (1) When the Director of the Department of Correction is satisfied
8 that there are reasonable grounds for believing that an individual under
9 sentence of death is not competent, due to mental illness, to understand the
10 nature and reasons for that punishment, the Director shall notify the Deputy
11 Director of the Division of Mental Health Services of the Arkansas Department
12 of Human Services. The Director of the Department of Correction shall also
13 notify the Governor of this action. The Division of Mental Health Services of
14 the state shall cause an inquiry to be made into the mental condition of the
15 individual within thirty (30) days of receipt of notification. The attorney
16 of record of the individual shall also be notified of this action, and
17 reasonable allowance will be made for an independent mental health evaluation
18 to be made. A copy of the report of the evaluation by the Division of Mental
19 Health Services shall be furnished to the Department of Correction Mental
20 Health Services, along with any recommendations for treatment of the
21 individual. All responsibility for implementation of treatment remains with
22 the Department of Correction Mental Health Services.

23 (A) If the individual is found competent to understand the nature
24 of and reason for the punishment, the Governor shall be so notified, and shall
25 order the execution to be carried out according to law.

26 (B) If the individual is found incompetent due to mental illness,
27 the Governor shall order that appropriate mental health treatment be provided.
28 *The Director may order a reevaluation of the competency of the individual as*
29 *circumstances may warrant.*

30 (2) When the Director of the Department of Correction is satisfied that
31 there are reasonable grounds for believing that a female convict under
32 sentence of death is pregnant, he shall suspend the execution until it appears
33 that she is not pregnant or until she has delivered the child."

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35 SECTION 2. All provisions of this act of a general and permanent nature

1 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
2 Revision Commission shall incorporate the same in the Code.

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4 SECTION 3. If any provision of this act or the application thereof to
5 any person or circumstance is held invalid, such invalidity shall not affect
6 other provisions or applications of the act which can be given effect without
7 the invalid provision or application, and to this end the provisions of this
8 act are declared to be severable.

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10 SECTION 4. All laws and parts of laws in conflict with this act are
11 hereby repealed.

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13 SECTION 5. EMERGENCY. It is hereby found and determined by the General
14 Assembly that present law does not utilize the physical capabilities of the
15 Department of Correction and that carrying out the death penalty under these
16 changes is necessary for the peace, health and safety of the state.
17 Therefore, an emergency is hereby declared to exist and this act being
18 necessary for the preservation of the public peace, health and safety shall be
19 in full force and effect from and after its passage and approval.

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/s/Senator Scott

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