

1 **State of Arkansas**

**Call Item 12**

2 **79th General Assembly**

# **A Bill**

3 **Second Extraordinary Session, 1994**

**HOUSE BILL 1021**

4 **By: Representatives McGee, Hogue, Wagner, and Pryor**

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## **For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE § 16-93-1301 TO PROVIDE  
9 THAT PERSONS WHO ARE WITHIN ONE (1) YEAR OF THEIR  
10 PROJECTED PAROLE ELIGIBILITY OR MINIMUM RELEASE DATE SHALL  
11 BE ELIGIBLE FOR TRANSFER TO A COMMUNITY PUNISHMENT  
12 FACILITY; TO MAKE CERTAIN PERSONS WHO ARE IN VIOLATION OF  
13 THEIR PAROLE CONDITIONS ELIGIBLE TO BE COMMITTED TO A  
14 COMMUNITY PUNISHMENT FACILITY; TO ALLOW JUDICIAL TRANSFERS  
15 TO COMMUNITY PUNISHMENT FOR CERTAIN OFFENSES; TO DECLARE  
16 AN EMERGENCY; AND FOR OTHER PURPOSES."

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### **Subtitle**

19 "TO AMEND PROVISIONS AFFECTING  
20 ELIGIBILITY FOR TRANSFER OR COMMITMENT  
21 TO COMMUNITY PUNISHMENT."  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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25 SECTION 1. Arkansas Code § 16-93-1301 is amended to read as follows:

26 "16-93-1301. Transfer provisions.

27 (a) As used in this subchapter, \_felonies\_ means those crimes  
28 classified as Class Y, Class A, Class B, Class C, Class D, or unclassified  
29 felonies by the laws of this state.

30 (b) (1) (A) Persons who committed felonies prior to January 1, 1994, and  
31 who were convicted and incarcerated for those felonies, shall be eligible for  
32 release on parole in accordance with the parole eligibility law in effect at  
33 the time the crime was committed.

34 (B) Persons who committed target offenses under the  
35 Community Punishment Act prior to January 1, 1994, and who have not been

1 sentenced to a term of incarceration may waive the right to be released under  
2 the parole eligibility law in effect at the time the crimes were committed and  
3 shall become eligible for judicial transfer pursuant to the transfer  
4 provisions provided in subsection (c) (2).

5 (C) Persons who have committed felonies and who are within  
6 a target group as currently defined under the Community Punishment Act, § 16-  
7 93-1201, et seq., and are released on parole shall, pursuant to rules and  
8 regulations established by the Post Prison Transfer Board, be eligible for  
9 commitment to a community punishment facility if they are found to be in  
10 violation of any of their parole conditions, unless the parole violation  
11 constitutes a criminal offense.

12 (2) [Expires April 1, 1995.] Persons who committed felonies prior  
13 to January 1, 1994, and who are within a target group, as currently defined  
14 under the Community Punishment Act, § 16-93-1201 et seq., shall be eligible  
15 for transfer to a community punishment facility one (1) year prior to their  
16 projected parole eligibility and minimum release dates.

17 (c) Persons who commit felonies on or after January 1, 1994, and who  
18 shall be convicted and incarcerated for those felonies, shall be eligible for  
19 transfer to community punishment as follows:

20 (1) (A) Inmates under sentence of death or life imprisonment  
21 without parole shall not be eligible for transfer, but may be pardoned or have  
22 their sentences commuted by the Governor, as provided by law.

23 (B) Inmates sentenced to life imprisonment shall not be  
24 eligible for transfer unless the sentences are commuted to a term of years by  
25 executive clemency.

26 (C) Upon commutation, inmates shall be eligible for  
27 transfer as provided in this subchapter.

28 (2) (A) (i) Offenders convicted of a target offense under the  
29 Community Punishment Act, § 16-93-1401 et seq., may be committed to the  
30 Department of Correction and judicially transferred to the Department of  
31 Community Punishment by specific provision in the commitment that the trial  
32 court orders such a transfer.

33 (ii) A copy of such commitment shall be immediately  
34 forwarded to the Department of Correction and the Department of Community  
35 Punishment.

1 (B) The Department of Community Punishment shall take over  
2 supervision of the offender in accordance with the order of the court.

3 (C) The Department of Community Punishment shall provide  
4 for the appropriate disposition of the offender as expeditiously as  
5 practicable under rules and regulations developed by the Board of Correction  
6 and Community Punishment.

7 (D) The offender shall not be transported to the Department  
8 of Correction.

9 (3) (A) All other classified or unclassified felons who are  
10 incarcerated therefor shall be eligible for transfer to community punishment  
11 after having served one-third (1/3) or one-half (1/2), with credit for  
12 meritorious good time, of their sentences depending on the seriousness  
13 determination made by the Arkansas Sentencing Commission, or one-half (1/2),  
14 with credit for meritorious good time, of the time to which their sentence is  
15 commuted by executive clemency.

16 (B) For example, a six-year sentence with optimal  
17 meritorious good time credits will make the offender eligible for transfer in  
18 one (1) year if he is required to serve one third (1/3) of his sentence, or  
19 one and one-half (1 1/2) years if he is required to serve one-half (1/2) of his  
20 sentence."

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22 SECTION 2. All provisions of this act of general and permanent nature  
23 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
24 Revision Commission shall incorporate the same in the Code.

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26 SECTION 3. If any provisions of this act or the application thereof to  
27 any person or circumstance is held invalid, the invalidity shall not affect  
28 other provisions or applications of the act which can be given effect without  
29 the invalid provisions or application, and to this end the provisions of this  
30 act are declared to be severable.

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

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35 SECTION 5. Emergency. It is hereby found and determined by the

1 Seventy-Ninth General Assembly of the State of Arkansas meeting in the Second  
2 Extraordinary Session of 1994 that the Arkansas Community Punishment Act  
3 provides for too little opportunity to sentence and transfer eligible  
4 offenders to community punishment facilities and that the correctional  
5 policies of the State of Arkansas need immediate revision in order to better  
6 effectuate the rehabilitation of persons convicted of crimes and to make  
7 possible their return as useful members of the community. Therefore, in order  
8 to increase the number of persons who are eligible for transfer and sentencing  
9 to the community punishment facilities, an emergency is hereby declared to  
10 exist, and this act being necessary for the immediate preservation of the  
11 public peace, health, and safety, shall be in full force and effect from and  
12 after its passage and approval.

13 */s/Rep. McGee, et al*

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