

1 **State of Arkansas**
2 **79th General Assembly**
3 **Second Extraordinary Session, 1994**
4 **By: Representative J. Wilson**

A Bill

Call Item 1

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 5-4-603 TO PROVIDE THAT THE
9 JURY SHALL IMPOSE A SENTENCE OF DEATH ONLY IF IT
10 DETERMINES THAT THE DEFENDANT WAS AT LEAST 16 YEARS OF AGE
11 AT THE TIME OF THE COMMISSION OF THE CRIME; AND FOR OTHER
12 PURPOSES."

Subtitle

15 "TO PROVIDE THAT THE JURY SHALL IMPOSE A
16 SENTENCE OF DEATH ONLY IF IT DETERMINES
17 THAT THE DEFENDANT WAS AT LEAST 16 YEARS
18 OF AGE AT THE TIME OF THE COMMISSION OF
19 THE CRIME."

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

24 SECTION 1. Arkansas Code 5-4-603 is amended to read as follows:

25 "5-4-603. Findings required for death sentence - Harmless error review.

26 (a) The jury shall impose a sentence of death if it unanimously returns
27 written findings that:

28 (1) Aggravating circumstances exist beyond a reasonable doubt;

29 and

30 (2) Aggravating circumstances outweigh beyond a reasonable doubt
31 all mitigating circumstances found to exist;

32 (3) Aggravating circumstances justify a sentence of death beyond
33 a reasonable doubt; and

34 (4) The defendant was at least sixteen (16) years of age at the
35 time of the commission of the crime.

1 (b) The jury shall impose a sentence of life imprisonment without
2 parole if it finds that:

3 (1) Aggravating circumstances do not exist beyond a reasonable
4 doubt; or

5 (2) Aggravating circumstances do not outweigh beyond a reasonable
6 doubt all mitigating circumstances found to exist; or

7 (3) Aggravating circumstances do not justify a sentence of death
8 beyond a reasonable doubt.

9 (c) If the jury does not make all findings required by subsection (a)
10 of this section, the court shall impose a sentence of life imprisonment
11 without parole.

12 (d) On appellate review of a death sentence, if the Arkansas Supreme
13 Court finds that the jury erred in finding the existence of any aggravating
14 circumstance or circumstances for any reason and if the jury found no
15 mitigating circumstances, the Arkansas Supreme Court shall conduct a harmless
16 error review of the defendant's death sentence. The Arkansas Supreme Court
17 shall conduct this harmless error review by:

18 (1) Determining that the remaining aggravating circumstance or
19 circumstances exist beyond a reasonable doubt; and

20 (2) Determining that the remaining aggravating circumstance or
21 circumstances justify a sentence of death beyond a reasonable doubt.

22 (e) If the Arkansas Supreme Court concludes that the erroneous finding
23 of any aggravating circumstances by the jury would not have changed the jury's
24 decision to impose the death penalty on the defendant, then a simple majority
25 of the court may vote to affirm the defendant's death sentence."
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27 SECTION 2. All provisions of this act of a general and permanent nature
28 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
29 Revision Commission shall incorporate the same in the Code.
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31 SECTION 3. If any provision of this act or the application thereof to
32 any person or circumstance is held invalid, such invalidity shall not affect
33 other provisions or applications of the act which can be given effect without
34 the invalid provision or application, and to this end the provisions of this
35 act are declared to be severable.

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

SECTION 5. EMERGENCY. It is hereby found and determined by the General Assembly that capital punishment should not be imposed upon any person who was under sixteen (16) years of age at the time of the commission of the crime; that this act so provides; and that this act should go into effect as soon as possible. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.

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