

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

A Bill

HOUSE BILL 2477

5 By: Representative Adams
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For An Act To Be Entitled

9 AN ACT PERTAINING TO PROBATION AND SUSPENDED
10 IMPOSITION OF SENTENCE; AND FOR OTHER PURPOSES.
11

Subtitle

12 AN ACT PERTAINING TO PROBATION AND
13 SUSPENDED IMPOSITION OF SENTENCE.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 5-4-101 is amended to read as follows:
20 5-4-101. Definitions

21 As used in this chapter, unless the context otherwise requires:

22 (1) "Suspension" or "suspend imposition of sentence" means a
23 procedure whereby a defendant who pleads or is found guilty of an offense is
24 released by the court ~~without pronouncement of sentence and without~~
25 supervision, but subject to such other conditions the court may impose;

26 (2) "Probation" or "place on probation" means a procedure
27 whereby a defendant who pleads or is found guilty of an offense is released
28 by the court ~~without pronouncement of sentence but~~ subject to the supervision
29 of a probation officer;
30

31 SECTION 2. Arkansas Code § 5-4-304(c) through (e), concerning
32 confinement as a condition of suspension or probation, are amended to read as
33 follows:

34 ~~(c)(1) Following a revocation hearing held pursuant to § 5-4-310 and~~
35 ~~wherein a finding of guilt has been made or the defendant has entered a plea~~
36 ~~of guilty or nolo contendere, the court may add a period of confinement to be~~



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1 ~~served during the period of suspension of imposition of sentence or period of~~
 2 ~~probation, if no period of confinement was included in the original order~~
 3 ~~placing the defendant on suspended imposition of sentence or probation~~ Should
 4 the court impose a period of confinement as a condition of the suspension or
 5 probation, the time imposed shall not exceed one hundred twenty (120) days in
 6 the case of a felony or thirty (30) days in the case of a misdemeanor.

7 (2) This time period shall be available to the court each time
 8 it considers confinement as a condition of the suspension or probation.

9 ~~(d)(1) The period actually spent in confinement pursuant to this~~
 10 ~~section shall not exceed one hundred twenty (120) days in the case of a~~
 11 ~~felony or thirty (30) days in the case of a misdemeanor.~~

12 ~~(2) For purposes of this subsection, any part of a twenty-four-~~
 13 ~~hour period spent in confinement shall constitute a day of confinement.~~

14 ~~(e)(d)~~ If the suspension or probation of the defendant is subsequently
 15 revoked and the defendant is sentenced to a term of imprisonment, the period
 16 actually spent in confinement pursuant to this section shall be credited
 17 against the subsequent sentence.

18
 19 SECTION 3. Arkansas Code § 5-4-309(f), concerning revocation of
 20 suspension or probation, is amended to read as follows:

21 ~~(f)(1)(A) If the court revokes a suspension or probation, it may enter~~
 22 ~~a judgment of conviction and may impose any sentence on the defendant that~~
 23 ~~might have been imposed originally for the offense of which he was found~~
 24 ~~guilty.~~

25 ~~(B) Provided, that any sentence to pay a fine or to~~
 26 ~~imprisonment, when combined with any previous fine or imprisonment imposed~~
 27 ~~for the same offense, shall not exceed the limits of § 5-4-201 or § 5-4-401,~~
 28 ~~or, if applicable, § 5-4-501.~~

29 ~~(2) (A) For purposes of this subsection, the term "any sentence"~~
 30 ~~includes the extension of a period of suspension or probation.~~

31 ~~(B) If, upon revocation, an extension of suspension or~~
 32 ~~probation is made, the court is not deprived of the ability to revoke such~~
 33 ~~suspension or probation again should the defendant's conduct so warrant.~~

34 (f) If the court determines that the defendant has violated the terms
 35 or conditions of his suspension or probation, the court may impose any
 36 sentence originally available to the court on the charges for which the

1 defendant was originally placed on suspension or probation, provided that any
2 sentence to pay a fine or to imprisonment when combined with any previous
3 fine or imprisonment for the same offense shall not exceed the limits of §§
4 5-4-201 or 5-4-401.

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6 SECTION 3. Arkansas Code Annotated §5-4-305 is repealed.

7 ~~5-4-305. Effect on appeal~~

8 ~~(a) If the court suspends imposition of sentence on a defendant or~~
9 ~~places him on probation, the fact that a judgment of conviction is not~~
10 ~~entered shall not preclude:~~

11 ~~(1) An appeal on the basis of any error in the adjudication of~~
12 ~~guilt or any error in the entry of the order of suspension or probation; or~~

13 ~~(2) The imposition of any costs authorized by law.~~

14 ~~(b) An appeal following a suspension or probation may be taken by~~
15 ~~filing notice of appeal in the manner prescribed by law within thirty (30)~~
16 ~~days after the docket entry of suspension or probation.~~