

1 **State of Arkansas**
2 **79th General Assembly**
3 **First Extraordinary Session, 1994**

A Bill

Call Item 7
ACT 3 OF 1994
HOUSE BILL 1006

4 **By: Representatives Argue, Bryan, M. Wilson, Willems, D. Wood, Thicksten, Rice, Jones,**
5 **Wingfield, Blair, Deitz, Henry, King, McGee, Schexnayder, Jordan, Walker, Davis, Calhoun,**
6 **Wooldridge, Hunton, Wyrick, Pryor, Choate, Stalnaker, Fletcher, Young, and Owens**

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For An Act To Be Entitled

10 "AN ACT TO AMEND ARKANSAS CODE § 16-91-110 TO PROHIBIT THE
11 RELEASE OF PERSONS CONVICTED OF CERTAIN CRIMES ON BAIL
12 PENDING APPEAL OF THEIR CONVICTIONS; TO DECLARE AN
13 EMERGENCY; AND FOR OTHER PURPOSES."

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Subtitle

16 "TO PROHIBIT THE RELEASE OF PERSONS
17 CONVICTED OF CERTAIN CRIMES ON BAIL
18 PENDING APPEAL OF THEIR CONVICTIONS"

19

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

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22 SECTION 1. Arkansas Code § 16-91-110 is amended to read as follows:

23 "16-91-110. Bail bond.

24 (a) The bail bond provided for in this section shall be filed in the
25 office of the clerk of the court in which the conviction is had, and a copy
26 thereof shall be attached to the bill of exceptions and shall be made a part
27 of the transcript to be filed in the Supreme Court.

28 (b)(1) Except those offenses provided for in subdivisions (b)(2) and
29 (b)(3) of this section, when a criminal defendant has been found guilty,
30 pleaded guilty, or pleaded nolo contendere to a criminal offense and is
31 sentenced to serve a term of imprisonment, and the criminal defendant has
32 filed an appeal, the court shall not release the defendant on bail or
33 otherwise pending appeal unless the court finds:

34 (A) By clear and convincing evidence that the person is not
35 likely to flee or that there is not a substantial risk that the defendant will
36 commit a serious crime, intimidate witnesses, harass or take retaliatory

1 action against any juror, or otherwise interfere with the administration of
2 justice or pose a danger to the safety of any other person; and

3 (B) That the appeal is not for the purpose of delay and
4 that it raises a substantial question of law or fact.

5 (2) When a criminal defendant has been found guilty, pleaded
6 guilty, or pleaded nolo contendere to a criminal offense of capital murder,
7 the court shall not release the defendant on bail or otherwise pending appeal
8 or for any reason.

9 (3) When a criminal defendant has been found guilty, pleaded
10 guilty, or pleaded nolo contendere to a criminal offense of murder in the
11 *first degree, rape, aggravated robbery, or causing a catastrophe, or the*
12 *criminal offenses of kidnapping or arson when classified as a Class Y felony*
13 *and is sentenced to death or a term of imprisonment, the court shall not*
14 release the defendant on bail or otherwise pending appeal or for any reason.

15 (c)(1) If the appeal is granted by the circuit court, the appeal bond
16 shall be conditioned that the defendant surrender himself in the Supreme Court
17 upon the dismissal of the appeal or upon the rendition of final judgment upon
18 the appeal.

19 (2) If the defendant fails to surrender himself in the Supreme
20 Court in compliance with the conditions of his bond, the Supreme Court shall
21 direct that fact to be entered on its records and shall adjudge the bail bond
22 of the defendant, or the money deposited in lieu thereof, to be forfeited. The
23 Clerk of the Supreme Court shall immediately make and forward to the clerk of
24 the circuit court of the county in which the defendant was tried a certified
25 copy of the judgment of the Supreme Court.

26 (3) The circuit clerk shall file the copy and shall immediately
27 issue a summons against the sureties on the bail bond requiring them to appear
28 and show cause why judgment should not be rendered against them for the sum
29 specified in the bail bond on account of the forfeiture thereof, which summons
30 shall be made returnable and shall be executed as in civil actions, and the
31 action shall be docketed and shall proceed as an ordinary civil action.

32 (4) The summons may be served in any county in the state, and the
33 service of the summons on the defendant or defendants in any county in the
34 state shall give the court complete jurisdiction of the defendant and cause.

35 (5) No pleadings on the part of the state shall be required in

1 such cases.

2 (d) (1) If the court in which the case is tried refuses to grant an
3 appeal and the appeal shall thereafter be granted by any Justice or Justices
4 of the Supreme Court, the bond shall be conditioned that, upon the dismissal
5 of the appeal or the rendition of the final judgment therein by the Supreme
6 Court, the defendant shall surrender himself in execution of the judgment.

7 (2) If the appeal is not granted by the court in which the
8 defendant was convicted, the bail bond shall also be conditioned that, if the
9 appeal is not granted by any Justice or Justices of the Supreme Court, the
10 defendant shall, immediately upon the denial of an appeal, surrender himself
11 to the sheriff of the county in which he was convicted in execution of the
12 judgment and sentence of the trial court."

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14 SECTION 2. This act may be known and cited as the "Officer Henry
15 Callenan Memorial Post-Conviction Appeal Bond Elimination Act".

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17 SECTION 3. All provisions of this act of general and permanent nature
18 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
19 Revision Commission shall incorporate the same in the Code.

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21 SECTION 4. If any provisions of this act or the application thereof to
22 any person or circumstance is held invalid, the invalidity shall not affect
23 other provisions or applications of the act which can be given effect without
24 the invalid provisions or application, and to this end the provisions of this
25 act are declared to be severable.

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27 SECTION 5. All laws and parts of laws in conflict with this act are
28 hereby repealed.

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30 SECTION 6. Emergency. It is hereby found and determined by the
31 Seventy-Ninth General Assembly of the State of Arkansas meeting in the First
32 Extraordinary Session of 1994 that dangerous criminals who have been convicted
33 of first-degree murder and other Class Y felonies are eligible under current
34 laws to be released on appeal bonds; that Act 31 of 1987 was intended to limit
35 the number of dangerous criminals being released on appeal bonds, but, in

1 reality, has failed to stop the practice of releasing these criminals; and
2 that the law must, in more specific terms, be changed to further limit those
3 criminals subject to release on bail pending their appeals. Therefore, in
4 order to correct a situation which endangers the safety of the citizens of
5 Arkansas, an emergency is hereby declared to exist, and this act being
6 necessary for the immediate preservation of the public peace, health, and
7 safety, shall be in full force and effect from and after its passage and
8 approval.

9 */s/Jim Argue, Jr.*

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11 APPROVED: 3-3-94
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As Engrossed: 3/1/94 3/1/94

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