

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

A Bill

ACT 1089 OF 1993
SENATE BILL 794

For An Act To Be Entitled

8 "AN ACT TO AMEND ARK. CODE ANN. § 5-4-602(4) TO AUTHORIZE
9 THE ADMISSION OF VICTIM IMPACT EVIDENCE; AND FOR OTHER
10 PURPOSES."

Subtitle

13 "AN ACT TO AMEND ARK. CODE ANN. § 5-4-602(4) TO AUTHORIZE
14 THE ADMISSION OF VICTIM IMPACT EVIDENCE."

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

18 SECTION 1. Ark. Code Ann. § 5-4-602(4) is amended as follows:

19 "(4) In determining sentence, evidence may be presented to the jury as
20 to any matters relating to aggravating circumstances enumerated in § 5-4-604,
21 any mitigating circumstances or any other matter relevant to punishment
22 including, but not limited to, victim impact evidence, provided that the
23 defendant and the state are accorded an opportunity to rebut such evidence.
24 Evidence as to any mitigating circumstances may be presented by either the
25 state or the defendant regardless of its admissibility under the rules
26 governing admission of evidence in trials of criminal matters, but mitigation
27 evidence must be relevant to the issue of punishment, including but not
28 limited to the nature and circumstances of the crime, the defendant's
29 character, background, history, and mental and physical condition as set forth
30 in § 5-4-605. The admissibility of evidence relevant to the aggravating
31 circumstances set forth in § 5-4-604 shall be governed by the rules governing
32 the admission of evidence in trials of criminal matters. Any evidence
33 admitted at the trial relevant to punishment may be considered by the jury
34 without the necessity of reintroducing it at the sentencing proceeding. The
35 state and the defendant or his counsel shall be permitted to present argument
36 respecting sentencing. The state shall open the argument. The defendant shall

1 be permitted to reply. The state shall then be permitted to reply in
2 rebuttal."

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4 SECTION 2. It is the express intention of this act to permit the
5 prosecution to introduce victim impact evidence as permitted by the United
6 States Supreme Court in Payne v. Tennessee, 111 S.Ct.2597, 115 L.Ed.2d 720
7 (1991).

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9 SECTION 3. All provisions of this act of a general and permanent nature
10 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
11 Revision Commission shall incorporate the same in the Code.

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13 SECTION 4. If any provision of this act or the application thereof to
14 any person or circumstance is held invalid, such invalidity shall not affect
15 other provisions or applications of the act which can be given effect without
16 the invalid provision or application, and to this end the provisions of this
17 act are declared to be severable.

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

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22 SECTION 6. EMERGENCY. It is hereby found and determined by the General
23 Assembly that it is necessary to authorize the admission of victim impact
24 evidence at the penalty phase of capital murder trials and that immediate
25 passage of this act is necessary to protect the public peace, health and
26 safety of the state of Arkansas. Therefore, an emergency is hereby declared
27 to exist, and this act being immediately necessary for the preservation of the
28 public peace, health, and safety shall be in full force and effect from and
29 after its passage and approval.

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APPROVED: 04/13/93

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