

1 **State of Arkansas**
2 **79th General Assembly**
3 **Second Extraordinary Session, 1994**
4 **By: Senators Bookout and Gwatney**

A Bill

Call Item 12
ACT 19 OF 1994
SENATE BILL 30

For An Act To Be Entitled

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

Subtitle

"TO AMEND PROVISIONS AFFECTING ELIGIBILITY FOR TRANSFER OR COMMITMENT TO COMMUNITY PUNISHMENT."

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

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

"16-93-1301. Transfer provisions.

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

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

(B) Persons who committed target offenses under the Community Punishment Act prior to January 1, 1994, and who have not been sentenced to a term of incarceration may waive the right to be released under the parole eligibility law in effect at the time the crimes were committed and shall become eligible for judicial transfer pursuant to the

1 **transfer provisions provided in subsection (c)(2).**

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

8 **(2) [Expires April 1, 1995.] Persons who committed felonies prior to January**
9 **1, 1994, and who are within a target group, as currently defined under the Community**
10 **Punishment Act, § 16-93-1201 et seq., shall be eligible for transfer to a community punishment**
11 **facility one (1) year prior to their projected parole eligibility and minimum release dates.**

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

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

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

20 **(C) Upon commutation, inmates shall be eligible for transfer as**
21 **provided in this subchapter.**

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

26 **(ii) A copy of such commitment shall be immediately forwarded**
27 **to the Department of Correction and the Department of Community Punishment.**

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

30 **(C) The Department of Community Punishment shall provide for the**
31 **appropriate disposition of the offender as expeditiously as practicable under rules and**
32 **regulations developed by the Board of Correction and Community Punishment.**

33 **(D) The offender shall not be transported to the Department of**
34 **Correction.**

35 **(3)(A) All other classified or unclassified felons who are incarcerated therefor**

1 shall be eligible for transfer to community punishment after having served one-third (1/3) or
2 one-half (1/2), with credit for meritorious good time, of their sentences depending on the
3 seriousness determination made by the Arkansas Sentencing Commission, or one-half (1/2),
4 with credit for meritorious good time, of the time to which their sentence is commuted by
5 executive clemency.

6 (B) For example, a six-year sentence with optimal meritorious good time
7 credits will make the offender eligible for transfer in one (1) year if he is required to serve one
8 third (1/3) of his sentence, or one and one-half (1 1/2) years if he is required to serve one-half
9 (1/2) of his sentence."

10

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

14

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

19

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

21

22 SECTION 5. Emergency. It is hereby found and determined by the Seventy-Ninth
23 General Assembly of the State of Arkansas meeting in the Second Extraordinary Session of
24 1994 that the Arkansas Community Punishment Act provides for too little opportunity to
25 sentence and transfer eligible offenders to community punishment facilities and that the
26 correctional policies of the State of Arkansas need immediate revision in order to better
27 effectuate the rehabilitation of persons convicted of crimes and to make possible their return
28 as useful members of the community. Therefore, in order to increase the number of persons
29 who are eligible for transfer and sentencing to the community punishment facilities, an
30 emergency is hereby declared to exist, and this act being necessary for the immediate
31 preservation of the public peace, health, and safety, shall be in full force and effect from and
32 after its passage and approval.

33

34

APPROVED: 8-22-94

35

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23