

1 State of Arkansas *As Engrossed: H3/27/15 S3/31/15*

2 90th General Assembly

A Bill

3 Regular Session, 2015

HOUSE BILL 1371

4

5 By: Representative Wright

6 By: Senator Caldwell

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For An Act To Be Entitled

9 AN ACT CONCERNING PAROLE REVOCATION HEARINGS,
10 LOCATION OF PAROLE REVOCATION HEARINGS, AND CUSTODY
11 OF A PAROLEE DURING A PAROLE REVOCATION PROCEEDING;
12 AND FOR OTHER PURPOSES.

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Subtitle

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

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24 *SECTION 1. Arkansas Code § 16-93-705 is amended to read as follows:*

25 *16-93-705. Revocation – Procedures and hearings generally.*

26 *(a)(1)(A)(i) At any time during a parolee's release on parole, the*
27 *Parole Board may issue a warrant for the arrest of the parolee for violation*
28 *of any conditions of parole or may issue a notice to appear to answer a*
29 *charge of a violation.*

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(ii) The Department of Community Correction shall
provide the information necessary for the ~~Parole Board~~ board to issue a
warrant under subdivision (a)(1)(A)(i) of this section.

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(B)(i) The ~~Parole Board~~ board shall issue a warrant for
the arrest of a parolee if the board determines that the parolee has been
charged with a felony involving violence, as defined under § 5-4-501(d)(2),
or a felony requiring registration under the Sex Offender Registration Act of



1 1997, § 12-12-901 et seq.

2 (ii) The Department of Community Correction shall
3 provide the information necessary for the ~~Parole Board~~ board to issue a
4 warrant under subdivision (a)(1)(B)(i) of this section.

5 (iii) A parolee arrested on a warrant issued under
6 subdivision (a)(1)(B)(i) of this section shall be detained pending a
7 mandatory parole revocation hearing.

8 (2) The warrant or notice shall be served personally upon the
9 ~~individual~~ parolee.

10 (3) The warrant shall authorize all officers named in the
11 warrant to place the parolee in custody at any suitable detention facility
12 pending a hearing.

13 (4) Any parole officer may arrest a parolee without a warrant or
14 may deputize any officer with power of arrest to ~~do so~~ arrest the parolee
15 without a warrant by giving him or her a written statement setting forth that
16 the parolee, in the judgment of the parole officer, violated conditions of
17 his or her parole.

18 (5) The written statement delivered with the parolee by the
19 arresting officer to the official in charge of the detention facility to
20 which the parolee is brought shall be sufficient warrant for detaining him or
21 her pending disposition.

22 (6) If the board or its designee finds, by a preponderance of
23 the evidence, that the parolee has inexcusably failed to comply with a
24 condition of his or her parole, the parole may be revoked at any time prior
25 to the expiration of the period of parole.

26 (7) A parolee for whose return a warrant has been issued by the
27 board shall be deemed a fugitive from justice if it is found that the warrant
28 cannot be served.

29 (8) The board shall determine whether the time from the issuance
30 of the warrant to the date of arrest, or any part of it, shall be counted as
31 time served under the sentence.

32 (b)(1) A parolee arrested for violation of parole shall be entitled to
33 a preliminary hearing to determine whether there is reasonable cause to
34 believe that he or she has violated a condition of parole.

35 (2) The preliminary hearing shall be scheduled within seven (7)
36 days after arrest and conducted within fourteen (14) days after arrest,

1 excluding a weekend, holiday, or delay caused by an act of nature, by the
2 parole revocation judge for the board ~~as soon as practical after arrest~~ and
3 reasonably near the place of the alleged violation or arrest.

4 (3) The parolee shall be given prior notice of the date, time,
5 and location of the preliminary hearing, the purpose of the preliminary
6 hearing, and the conditions of parole he or she is alleged to have violated.

7 (4) Except as provided in subsection (d) of this section, the
8 parolee shall have the right to hear and controvert evidence against him or
9 her, to offer evidence in his or her own behalf, and to be represented by
10 counsel.

11 (5) If the parole revocation judge finds that there is
12 reasonable cause to believe that the parolee has violated a condition of
13 parole, the parole revocation judge may order the parolee returned to the
14 ~~custody~~ nearest facility of the Department of Correction or Department of
15 Community Correction where the parolee shall be placed in custody for a
16 parole revocation hearing before the board.

17 (6) If the parole revocation judge finds that there is
18 reasonable cause to believe that the parolee has violated a condition of
19 parole, the parole revocation judge may return the ~~offender~~ parolee to parole
20 supervision rather than to the custody of the Department of Correction and
21 may impose additional supervision conditions in response to the violating
22 conduct.

23 (7) If the parole revocation judge does not find reasonable
24 cause, he or she shall order the parolee released from custody, but that
25 action shall not bar the board from holding a parole revocation hearing on
26 the alleged violation of parole or from ordering the parolee to appear before
27 ~~the~~ the board.

28 (8) The parole revocation judge shall prepare and furnish to the
29 board and the parolee a summary of the parole revocation hearing, including
30 the substance of the evidence and testimony considered along with the ruling
31 or determination within twenty-one (21) days from the date of the preliminary
32 hearing, excluding a weekend, holiday, or delay caused by an act of nature.

33 (c)(1)(A) Unless a parole revocation hearing is knowingly and
34 intelligently waived by the parolee, a parole shall not be revoked except
35 after a parole revocation hearing, which shall be conducted by the board or
36 its designee within a reasonable period of time after the parolee's arrest.

1 (B) If a waiver is granted under subdivision (c)(1)(A) of
2 this section, the parolee may subsequently appeal the waiver to the board.

3 (2) The parolee shall be given prior notice of the date, time,
4 and location of the parole revocation hearing, the purpose of the parole
5 revocation hearing, and the conditions of parole he or she is alleged to have
6 violated.

7 (3) Except as provided in subsection (d) of this section, the
8 parolee shall have the right to hear and controvert evidence against him or
9 her, to offer evidence in his or her own defense, and to be represented by
10 counsel.

11 (4) If parole is revoked, the board or its designee shall prepare
12 and furnish to the parolee a written statement of evidence relied on and the
13 reasons for revoking parole.

14 (d) At a preliminary hearing under subsection (b) of this section or a
15 parole revocation hearing under subsection (c) of this section:

16 (1) The parolee shall have the right to confront and cross-
17 examine adverse witnesses unless the parole revocation judge or the board or
18 its designee specifically finds good cause for not allowing confrontation;
19 and

20 (2) The parolee may introduce any relevant evidence of the
21 alleged violation, including letters, affidavits, and other documentary
22 evidence, regardless of its admissibility under the rules governing the
23 admission of evidence.

24 (e) A preliminary hearing under subsection (b) of this section shall
25 not be required if:

26 (1) The parolee waives a preliminary hearing; or

27 (2) Unless a parole revocation hearing is knowingly and
28 intelligently waived by the parolee under subsection (c) of this section, the
29 parole revocation hearing under subsection (c) of this section is held
30 ~~promptly~~ within fourteen (14) calendar days after the arrest and reasonably
31 near the place where the alleged violation occurred or where the parolee was
32 arrested.

33 (f) A preliminary hearing under subsection (b) of this section and a
34 parole revocation hearing under subsection (c) of this section shall not be
35 necessary if the parole revocation is based on the parolee's conviction,
36 guilty plea, or plea of nolo contendere to a felony offense for which he or

1 she is sentenced to the Department of Correction or to any other state or
2 federal ~~penal~~ correctional institution.

3 (g) The county sheriff or keeper of the county jail may permit the
4 parolee to be held in the county jail while awaiting the parole revocation
5 hearing under this section and ruling of the board or its designee.

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/s/Wright

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APPROVED: 04/08/2015

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