

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: S3/15/11

A Bill

SENATE BILL 389

5 By: Senator Lavery
6 By: Representative Rice
7

For An Act To Be Entitled

9 AN ACT REGARDING THE RELEASE OF AN ACQUITTEE FOR
10 MENTAL DISEASE OR DEFECT; AND FOR OTHER PURPOSES.
11

Subtitle

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13
14 REGARDING THE RELEASE OF AN ACQUITTEE FOR
15 MENTAL DISEASE OR DEFECT.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code § 5-2-315(c), concerning the release of an
21 acquittee for mental disease or defect, is amended to read as follows:

22 (c) If the circuit court finds after a hearing under subsection (b) of
23 this section by the standard specified in § 5-2-314(e) that the person
24 acquitted has recovered from his or her mental disease or defect to such an
25 extent that:

26 (1) The discharge of the person acquitted would no longer create
27 a substantial risk of bodily injury to another person or serious damage to
28 property of another person, then the circuit court shall order that the
29 person acquitted be immediately discharged; or

30 (2) The conditional release of the person acquitted under a
31 prescribed regimen of medical, psychiatric, or psychological care or
32 treatment would no longer create a substantial risk of bodily injury to
33 another person or serious damage to property of another person,
34 then the circuit court shall order:

35 (A) That the person acquitted be conditionally released
36 under a prescribed regimen of medical, psychiatric, or psychological care or



1 treatment that has been:

- 2 (i) Prepared for the person acquitted;
- 3 (ii) Certified to the circuit court as appropriate
- 4 by the director of the facility in which the person acquitted is committed;
- 5 and
- 6 (iii) Found by the circuit court to be appropriate;
- 7 and

8 (B) ~~As explicit~~ Explicit conditions of release, ~~that~~

9 including without limitation requirements that:

- 10 (i) The person acquitted comply with the prescribed
- 11 regimen of medical, psychiatric, or psychological care or treatment;
- 12 (ii) The person acquitted be subject to regularly
- 13 scheduled personal contact with a compliance monitor for the purpose of
- 14 verifying compliance with the conditions of release; ~~and~~
- 15 (iii) ~~That compliance~~ Compliance with the conditions
- 16 of release be documented with the circuit court by the compliance monitor at
- 17 ninety-day intervals or at such intervals as the circuit court may order; ~~;~~
- 18 and
- 19 (iv) Impose the conditions of release for a period
- 20 of up to five (5) years.

21

22 SECTION 2. Arkansas Code § 5-2-316 is amended to read as follows:

23 5-2-316. Conditional release – Subsequent discharge, modification, or

24 revocation.

25 (a)(1) ~~Any~~ The Director of the Department of Human Services or his or

26 her designee, or a person conditionally released pursuant to under § 5-2-314

27 ~~or § 5-2-315, or both,~~ may apply to the court ordering the conditional

28 release for discharge from or modification of the order granting conditional

29 release on the ground that he or she may be discharged or the order modified

30 without danger to himself or herself or to the person or property of another

31 person.

32 (2) The application shall be accompanied by a supporting

33 affidavit of a qualified physician.

34 (3) A copy of the application and affidavit shall be transmitted

35 to the prosecuting attorney of the judicial circuit from which the person was

36 conditionally released and to any person supervising his or her release, and

1 the hearing on the application shall be held following notice to the
2 prosecuting attorney and the person supervising his or her release.

3 (b)(1) ~~Within five (5) years after the most recent order of~~
4 ~~conditional release is issued pursuant to § 5-2-314 or § 5-2-315 and after~~
5 After notice to the conditionally released person and a hearing, the court
6 may determine that the conditionally released person has violated a condition
7 of release or that for the safety of the conditionally released person or for
8 the safety of the person or property of another person the conditional
9 ~~release should be modified or revoked.~~ modified, extended for a period
10 specified by the court not to exceed five (5) years, or revoked.

11 (2)(A) If an order is entered revoking the most recent order of
12 conditional release under subdivision (b)(1) of this section, all conditions
13 of the release shall be abated, ~~including the five-year conditional release~~
14 ~~time frame in subdivision (b)(1) of this section,~~ and the person shall be
15 ordered to be committed to the custody of the ~~Director of the Department of~~
16 ~~Human Services~~ director or the director's designee.

17 (B) After the revocation described in subdivision
18 (b)(2)(A) of this section, the person is subject to future discharge or
19 conditional release only ~~in accordance with~~ under the procedure prescribed in
20 § 5-2-315.

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22 /s/Laverty

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25 **APPROVED: 04/01/2011**