

ARKANSAS SENATE

93rd General Assembly - Regular Session, 2021 Amendment Form

Subtitle of Senate Bill No. 591

CONCERNING THE SENTENCING OF A PERSON WHO COMMITTED AN OFFENSE BEFORE HE OR SHE
TURNED TWENTY-ONE YEARS OF AGE.

Amendment No. 1 to Senate Bill 591

Amend Senate Bill No. 591 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 5-4-108 is amended to read as follows:

5-4-108. Sentencing for person who committed an offense when he or she was less than ~~18~~ 21 years of age.

A defendant shall not be sentenced to death or life imprisonment without the possibility of parole for an offense if the defendant was less than ~~eighteen (18)~~ twenty-one (21) years of age at the time the offense was committed.

SECTION 2. Arkansas Code § 16-93-613(c), concerning parole eligibility for Class Y, Class A, and Class B felonies, is amended to read as follows:

(c) Except as provided for under § 16-93-621, for an offense committed before, on, or after ~~March 20, 2017~~ the effective date of this act, a person who was ~~a minor~~ less than twenty-one (21) years of age at the time of committing an offense listed under subsection (a) of this section is eligible for release on parole under this section.

SECTION 3. Arkansas Code § 16-93-614(d), concerning parole eligibility for offenses committed after January 1, 1994, is amended to read as follows:

(d) Except as provided for under § 16-93-621, for an offense committed before, on, or after ~~March 20, 2017~~ the effective date of this act, a person who was ~~a minor~~ less than twenty-one (21) years of age at the time of committing an offense listed under subsection (c) of this section is eligible for release on parole under this section.

SECTION 4. Arkansas Code § 16-93-618(f), concerning parole eligibility for certain Class Y felony offenses and certain methamphetamine offenses and the serving of seventy percent (70%) of a person's sentence, is amended to read as follows:

(f) Except as provided for under § 16-93-621, for an offense committed before, on, or after ~~March 20, 2017~~ the effective date of this act, a person



who was ~~a minor~~ less than twenty-one (21) years of age at the time of committing an offense listed under subsection (a) of this section is eligible for release on parole under this section.

SECTION 5. Arkansas Code § 16-93-621 is amended to read as follows:

16-93-621. Parole eligibility – A person who was ~~a minor~~ less than twenty-one (21) years of age at the time of committing an offense that was committed before, on, or after ~~March 20, 2017~~ the effective date of this act.

(a)(1) A ~~minor~~ person less than twenty-one (21) years of age who was convicted and sentenced to the Department of Correction or Division of Correction for an offense committed before he or she was ~~eighteen (18)~~ twenty-one (21) years of age and in which the death of another person did not occur is eligible for release on parole no later than after twenty (20) years of incarceration, including any applicable sentencing enhancements, and including an instance in which multiple sentences are to be served consecutively or concurrently, unless by law the ~~minor~~ person less than twenty-one (21) years of age is eligible for earlier parole eligibility.

(2)(A) A ~~minor~~ person less than twenty-one (21) years of age who was convicted and sentenced to the department or the division for an offense committed before he or she was ~~eighteen (18)~~ twenty-one (21) years of age, in which the death of another person occurred, and that was committed before, on, or after ~~March 20, 2017~~, the effective date of this act is eligible for release on parole no later than after twenty-five (25) years of incarceration if he or she was convicted of murder in the first degree, § 5-10-102, or no later than after thirty (30) years of incarceration if he or she was convicted of capital murder, § 5-10-101, including any applicable sentencing enhancements, unless by law the ~~minor~~ person less than twenty-one (21) years of age is eligible for earlier parole eligibility.

(B) Subdivision (a)(2)(A) of this section applies retroactively to ~~a minor~~ a person less than twenty-one (21) years of age whose offense was committed before he or she was ~~eighteen (18)~~ twenty-one (21) years of age, including ~~minors~~ persons less than twenty-one (21) years of age serving sentences of life, regardless of the original sentences that were imposed.

(3) Credit for meritorious good time shall not be applied to calculations of time served under this subsection for ~~minors~~ a person less than twenty-one (21) years of age convicted and sentenced for capital murder, § 5-10-101(c), or when a life sentence is imposed for murder in the first degree, § 5-10-102.

(4) The calculation of the time periods under this subsection shall include any applicable sentence enhancements to which the ~~minor~~ person less than twenty-one (21) years of age was sentenced that accompany the sentence for the underlying offense.

(b)(1) The Parole Board shall ensure that a hearing to consider the parole eligibility of a person who was ~~a minor~~ less than twenty-one (21) years of age at the time of the offense that was committed before, on, or after ~~March 20, 2017~~, the effective date of this act takes into account how a ~~minor offender~~ an offender less than twenty-one (21) years of age is different from an adult offender and provides a person who was ~~a minor~~ less than twenty-one (21) years of age at the time of the offense that was committed before, on, or after ~~March 20, 2017~~, the effective date of this act

with a meaningful opportunity to be released on parole based on demonstrated maturity and rehabilitation.

(2) During a parole eligibility hearing involving a person who was ~~a minor~~ less than twenty-one (21) years of age at the time of the offense that was committed before, on, or after ~~March 20, 2017~~, the effective date of this act the board shall take into consideration in addition to other factors required by law to be considered by the board:

(A) The diminished culpability of ~~minors~~ persons less than twenty (21) years of age as compared to that of adults;

(B) The hallmark features of youth;

(C) Subsequent growth and increased maturity of the person during incarceration;

(D) Age of the person at the time of the offense;

(E) Immaturity of the person at the time of the offense;

(F) The extent of the person's role in the offense and whether and to what extent an adult was involved in the offense;

(G) The person's family and community circumstances at the time of the offense, including any history of abuse, trauma, and involvement in the child welfare system;

(H) The person's participation in available rehabilitative and educational programs while in prison, if those programs have been made available, or use of self-study for self-improvement;

(I) The results of comprehensive mental health evaluations conducted by an adolescent mental health professional licensed in the state at the time of sentencing and at the time the person becomes eligible for parole under this section; and

(J) Other factors the board deems relevant.

(3) A person eligible for parole under this section may have an attorney present to represent him or her at the parole eligibility hearing.

(c)(1)(A) The board shall notify a victim of the crime before the board reviews parole eligibility under this section for an inmate convicted of the crime and provide information regarding victim input meetings, as well as state and national victim resource information.

(B) If the victim is incapacitated or deceased, the notice under subdivision (c)(1)(A) of this section shall be given to the victim's family.

(C) If the victim is less than eighteen (18) years of age, the notice under subdivision (c)(1)(A) of this section shall be given to the victim's parent or guardian.

(2) Victim notification under this subsection shall include:

(A) The location, date, and time of parole review; and

(B) The name and phone number of the individual to contact for additional information."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator G. Leding

BPG/BPG - 04-06-2021 15:01:18

BPG514

Secretary