

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: S4/8/21

# A Bill

SENATE BILL 591

5 By: Senator G. Leding  
6

## For An Act To Be Entitled

8 AN ACT CONCERNING THE SENTENCING OF A PERSON WHO  
9 COMMITTED AN OFFENSE BEFORE HE OR SHE TURNED TWENTY-  
10 ONE YEARS OF AGE; AND FOR OTHER PURPOSES.

## Subtitle

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

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 *SECTION 1. Arkansas Code § 5-4-108 is amended to read as follows:*

22 *5-4-108. Sentencing for person who committed an offense when he or she*  
23 *was less than ~~18~~ 21 years of age.*

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

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

31 *(c) Except as provided for under § 16-93-621, for an offense committed*  
32 *before, on, or after ~~March 20, 2017~~ the effective date of this act, a person*  
33 *who was ~~a minor~~ less than twenty-one (21) years of age at the time of*  
34 *committing an offense listed under subsection (a) of this section is eligible*  
35 *for release on parole under this section.*  
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1 SECTION 3. Arkansas Code § 16-93-614(d), concerning parole eligibility  
2 for offenses committed after January 1, 1994, is amended to read as follows:

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

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

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

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

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

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

32 (2)(A) A ~~minor~~ person less than twenty-one (21) years of age  
33 who was convicted and sentenced to the department or the division for an  
34 offense committed before he or she was ~~eighteen (18)~~ twenty-one (21) years of  
35 age, in which the death of another person occurred, and that was committed  
36 before, on, or after ~~March 20, 2017~~, the effective date of this act is

1 eligible for release on parole no later than after twenty-five (25) years of  
2 incarceration if he or she was convicted of murder in the first degree, § 5-  
3 10-102, or no later than after thirty (30) years of incarceration if he or  
4 she was convicted of capital murder, § 5-10-101, including any applicable  
5 sentencing enhancements, unless by law the ~~minor~~ person less than twenty-one  
6 (21) years of age is eligible for earlier parole eligibility.

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

13 (3) Credit for meritorious good time shall not be applied to  
14 calculations of time served under this subsection for ~~minors~~ a person less  
15 than twenty-one (21) years of age convicted and sentenced for capital murder,  
16 § 5-10-101(c), or when a life sentence is imposed for murder in the first  
17 degree, § 5-10-102.

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

22 (b)(1) The Parole Board shall ensure that a hearing to consider the  
23 parole eligibility of a person who was ~~a minor~~ less than twenty-one (21)  
24 years of age at the time of the offense that was committed before, on, or  
25 after ~~March 20, 2017,~~ the effective date of this act takes into account how a  
26 ~~minor offender~~ an offender less than twenty-one (21) years of age is  
27 different from an adult offender and provides a person who was ~~a minor~~ less  
28 than twenty-one (21) years of age at the time of the offense that was  
29 committed before, on, or after ~~March 20, 2017,~~ the effective date of this act  
30 with a meaningful opportunity to be released on parole based on demonstrated  
31 maturity and rehabilitation.

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

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

3 (B) The hallmark features of youth;

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

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

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

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

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

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

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

20 (J) Other factors the board deems relevant.

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

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

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

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

33 (2) Victim notification under this subsection shall include:

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

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

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*/s/G. Leding*