

1 INTERIM STUDY PROPOSAL 2015-096

2 State of Arkansas
3 90th General Assembly
4 Regular Session, 2015

As Engrossed: S3/17/15

A Bill

SENATE BILL 856

5
6 By: Senator D. Sanders

7 Filed with: Senate Committee on Judiciary
8 pursuant to A.C.A. §10-3-217.

9 **For An Act To Be Entitled**

10 AN ACT TO REVISE THE PAROLE STATUTES FOR REPEAT AND
11 VIOLENT OFFENDERS; CONCERNING PAROLE REVOCATION;
12 CONCERNING THE ISSUANCE OF AN ARREST WARRANT BY THE
13 PAROLE BOARD; AND FOR OTHER PURPOSES.

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16 **Subtitle**

17 TO REVISE THE PAROLE STATUTES FOR REPEAT
18 AND VIOLENT OFFENDERS; CONCERNING PAROLE
19 REVOCATION; AND CONCERNING THE ISSUANCE
20 OF AN ARREST WARRANT BY THE PAROLE BOARD

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

24
25 *SECTION 1. Arkansas Code § 5-54-125 is amended to read as follows:*
26 *5-54-125. Fleeing.*

27 *(a) If a person knows that his or her immediate arrest or detention is*
28 *being attempted by a duly authorized law enforcement officer, it is the*
29 *lawful duty of the person to refrain from fleeing, either on foot or by means*
30 *of any vehicle or conveyance.*

31 *(b) Fleeing is a separate offense and is not considered a lesser*
32 *included offense or component offense with relation to other offenses which*
33 *may occur simultaneously with the fleeing.*

34 *(c) Fleeing on foot is ~~considered~~ a Class C misdemeanor, except under*
35 *the following conditions:*

1 (1) If the defendant has been previously convicted of fleeing on
2 foot anytime within the past one-year period, a subsequent fleeing on foot
3 offense is a Class B misdemeanor;

4 (2) If property damage occurs as a direct result of the fleeing
5 on foot, the fleeing on foot offense is a Class A misdemeanor; ~~or~~

6 (3) If serious physical injury occurs to any person as a direct
7 result of the fleeing on foot, the fleeing on foot offense is a Class D
8 felony; or

9 (4) If the defendant was fleeing from a law enforcement officer
10 while he or she is currently being supervised on parole or probation by the
11 Department of Community Correction, the fleeing on foot offense is a Class D
12 felony.

13 (d)(1)(A) Fleeing by means of any vehicle or conveyance is considered
14 a Class A misdemeanor.

15 (B) A person convicted under subdivision (d)(1)(A) of this
16 section shall serve a minimum of two (2) days in jail.

17 (2) Fleeing by means of any vehicle or conveyance is ~~considered~~
18 a Class D felony if, under circumstances manifesting extreme indifference to
19 the value of human life, a person purposely operates the vehicle or
20 conveyance in such a manner that creates a substantial danger of death or
21 serious physical injury to another person.

22 (3) If serious physical injury to any person occurs as a direct
23 result of fleeing by means of any vehicle or conveyance, the fleeing by means
24 of any vehicle or conveyance offense is a Class C felony.

25 (4) If the defendant was fleeing from a law enforcement officer
26 while he or she is currently being supervised on parole or probation by the
27 Department of Community Correction, fleeing by means of any vehicle or
28 conveyance is a Class C felony.

29 (e) Regardless of the circumstances in subdivisions (c)(1)-(3) of this
30 section, if the defendant is under twenty-one (21) years of age and has not
31 been previously convicted of fleeing, the offense of fleeing is a Class C
32 misdemeanor.

33 (f) In addition to any other penalty, if the defendant is convicted of
34 violating subsection (d) of this section, the court shall instruct the Office
35 of Driver Services of the Department of Finance and Administration to suspend

1 or revoke the defendant's driver's license for at least six (6) months but
2 not more than one (1) year.

3
4 SECTION 2. Arkansas Code § 16-93-612, concerning the dates of the
5 offense as it pertains to parole eligibility, is amended to add an additional
6 subsection to read as follows:

7 (g) For an inmate serving a sentence for one (1) of the following
8 felonies committed on or after the effective date of this act, § 16-93-615(b)
9 governs the inmate's parole eligibility:

- 10 (1) Physician-assisted suicide, § 5-10-106;
- 11 (2) False imprisonment in the first degree, § 5-11-103;
- 12 (3) Vehicular piracy, § 5-11-105;
- 13 (4) Permanent detention or restraint, § 5-11-106;
- 14 (5) Robbery, § 5-12-102;
- 15 (6) Battery in the second degree, § 5-13-202;
- 16 (7) Aggravated assault, § 5-13-204;
- 17 (8) Introduction of controlled substance into body of another
18 person, § 5-13-210, if the offense is a Class Y felony;
- 19 (9) Aggravated assault upon a certified law enforcement officer
20 or an employee of a correctional facility, § 5-13-211;
- 21 (10) Terroristic threatening, § 5-13-301;
- 22 (11) Communicating a death threat concerning a school employee
23 or student, § 5-17-101;
- 24 (12) Trafficking of persons, § 5-18-103;
- 25 (13) Domestic battering in the second degree, § 5-26-304;
- 26 (14) Aggravated assault on a family or household member, § 5-26-
27 306;
- 28 (15) Endangering the welfare of an incompetent person in the
29 first degree, § 5-27-201;
- 30 (16) Endangering the welfare of a minor in the first degree, §
31 5-27-205;
- 32 (17) Permitting abuse of a minor, § 5-27-221;
- 33 (18) Exposing a child to a chemical substance or
34 methamphetamine, § 5-27-230; or
- 35 (19) Residential burglary, § 5-39-201.

1 SECTION 3. Arkansas Code § 16-93-615(b)(1), regarding certain
2 discretionary transfers of inmates to the Department of Community Correction
3 by the Parole Board, is amended to read as follows:

4 (b)(1) An inmate under sentence for one (1) of the following felonies,
5 unless listed under § 16-93-612(e)(1), is eligible for discretionary transfer
6 to the Department of Community Correction by the Parole Board after having
7 served one-third (1/3) or one-half (1/2) of his or her sentence, with credit
8 for meritorious good time, depending on the seriousness determination made by
9 the Arkansas Sentencing Commission, or one-half (1/2) of the time to which
10 his or her sentence is commuted by executive clemency, with credit for
11 meritorious good time:

12 ~~(A) Unless the offense is listed under § 16-93-612(e)(1),~~
13 ~~the following homicide offenses:~~

14 ~~(i)(A)~~ Capital murder, § 5-10-101, or attempted capital
15 murder;

16 ~~(ii)(B)~~ Murder in the first degree, § 5-10-102, or
17 attempted murder in the first degree;

18 ~~(iii)(C)~~ Murder in the second degree, § 5-10-103;

19 ~~(iv)(D)~~ Manslaughter, § 5-10-104;

20 ~~(v)(E)~~ Negligent homicide, § 5-10-105; ~~or~~

21 (F) Physician-assisted suicide, § 5-10-106;

22 (G) Kidnapping, § 5-11-102;

23 (H) False imprisonment in the first degree, § 5-11-103;

24 (I) Vehicular piracy, § 5-11-105;

25 (J) Permanent detention or restraint, § 5-11-106;

26 (K) Robbery, § 5-12-102;

27 (L) Aggravated robbery, § 5-12-103, or attempted
28 aggravated robbery;

29 (M) Battery in the first degree, § 5-13-201;

30 (N) Battery in the second degree, § 5-13-202;

31 (O) Aggravated assault, § 5-13-204;

32 (P) Introduction of controlled substance into body of
33 another person, § 5-13-210, if the offense is a Class Y felony;

34 (Q) Aggravated assault upon a certified law enforcement
35 officer or an employee of a correctional facility, § 5-13-211;

36 (R) Terroristic threatening, § 5-13-301;

1 (S) Terroristic act, § 5-13-310;
2 (T) Communicating a death threat concerning a school
3 employee or student, § 5-17-101;
4 (U) Trafficking of persons, § 5-18-103;
5 (V) Domestic battering in the first degree, § 5-26-303;
6 (W) Domestic battering in the second degree, § 5-26-304;
7 (X) Aggravated assault on a family or household member, §
8 5-26-306;
9 (Y) Endangering the welfare of an incompetent person in
10 the first degree, § 5-27-201;
11 (Z) Endangering the welfare of a minor in the first
12 degree, § 5-27-205;
13 (AA) Permitting abuse of a minor, § 5-27-221;
14 (BB) Exposing a child to a chemical substance or
15 methamphetamine, § 5-27-230;
16 (CC) Causing a catastrophe, § 5-38-202(a);
17 (DD) Arson, § 5-38-301;
18 (EE) Residential burglary, § 5-39-201;
19 (FF) Aggravated residential burglary, § 5-39-204;
20 ~~(vi)~~(GG) An offense under § 5-54-201 et seq.; Soliciting
21 material support for terrorism or providing material support for a terrorist
22 act, § 5-54-202;
23 (HH) Making a terrorist threat, § 5-54-203;
24 (II) Falsely communicating a terrorist threat, § 5-54-204;
25 (JJ) Terrorism, 5-54-205;
26 (KK) Hindering prosecution of terrorism, § 5-54-207;
27 (LL) Exposing the public to toxic biological, chemical, or
28 radioactive substances, § 5-54-208;
29 (MM) Use of a hoax substance, § 5-54-209;
30 (NN) Engaging in a continuing criminal enterprise, § 5-64-
31 405;
32 (OO) Criminal use of prohibited weapons, § 5-73-104,
33 involving an activity making it a Class B felony;
34 (PP) Simultaneous possession of drugs and firearms, § 5-
35 74-106;

1 ~~(B) Unless the offense is listed under § 16-93-612(e)(1),~~
2 ~~the following Class Y felonies:~~

- 3 ~~(i) Kidnapping, § 5-11-102;~~
- 4 ~~(ii) Aggravated robbery, § 5-12-103, or attempted~~
5 ~~aggravated robbery;~~
- 6 ~~(iii) Terroristic act, § 5-13-310;~~
- 7 ~~(iv) Causing a catastrophe, § 5-38-202(a);~~
- 8 ~~(v) Arson, § 5-38-301;~~
- 9 ~~(vi) Aggravated residential burglary, § 5-39-204; or~~
- 10 ~~(vii)(QQ) Unlawful discharge of a firearm from a vehicle,~~
11 ~~§ 5-74-107; or~~

12 ~~(C)(RR) Unless the offense is listed under § 16-93-~~
13 ~~612(e)(1), an An offense for which the inmate is required upon release to~~
14 ~~register as a sex offender under the Sex Offender Registration Act of 1997, §~~
15 ~~12-12-901 et seq.;~~

- 16 ~~(D) Battery in the first degree, § 5-13-201;~~
- 17 ~~(E) Domestic battering in the first degree, § 5-26-303;~~
- 18 ~~(F) Engaging in a continuing criminal enterprise, § 5-64-~~
19 ~~405; or~~
- 20 ~~(G) Simultaneous possession of drugs and firearms, § 5-74-~~
21 ~~106.~~

22
23 SECTION 4. Arkansas Code § 16-93-615(b), regarding certain
24 discretionary transfers of inmates to the Department of Community Correction
25 by the Parole Board, is amended to add an additional subdivision to read as
26 follows:

27 (7)(A) An inmate transferred to the Department of Community
28 Correction under subdivision (b)(1) of this section shall continue to serve
29 his or her original sentence without the possibility of parole if the inmate
30 has his or her parole revoked for committing one (1) or more of the felony
31 offenses listed under subdivision (b)(1) of this section.

32 (B) However, when the felony offense for which the
33 inmate's parole was revoked as described in subdivision (b)(7)(A) of this
34 section is adjudicated and results in:

1 (i) A new sentence of incarceration in the
2 Department of Correction, the inmate shall serve the remainder of his or her
3 original sentence without the possibility of parole; or

4 (ii) A new sentence not involving incarceration in
5 the Department of Correction, an acquittal, or the felony offense being
6 otherwise dismissed, the inmate may be considered again for parole when he or
7 she is eligible.

8
9 SECTION 5. Arkansas Code § 16-93-705(a)(1)(B)(i), concerning the
10 issuance of an arrest warrant by the Parole Board, is amended to read as
11 follows:

12 (B)(i) The Parole Board shall issue a warrant for the
13 arrest of a parolee if the board determines that the parolee has been charged
14 with a ~~felony involving violence, as defined under § 5-4-501(d)(2), or a~~
15 ~~felony requiring registration under the Sex Offender Registration Act of~~
16 ~~1997, § 12-12-901 et seq an offense listed under § 16-93-615(b)(1), or a~~
17 felony attempt, solicitation, or conspiracy to commit an offense listed under
18 § 16-93-615(b)(1).

19
20 /s/D. Sanders

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23 Referred by the Arkansas Senate

24 Prepared by: VJF