



*Arkansas  
Sentencing  
Commission*

**Impact Assessment for SB177  
Sponsored by Senator B. King**

**Subtitle** REQUIRING A PERSON WHO HAS THREE OR MORE PREVIOUS COMMITMENTS TO THE DEPARTMENT OF CORRECTION TO SERVE AT LEAST EIGHTY PERCENT OF HIS OR HER SENTENCE FOR HIS OR HER NEXT COMMITMENT TO THE DEPARTMENT BEFORE BEING ELIGIBLE FOR PAROLE.

**Impact Summary**<sup>1</sup> Major, requiring budgetary increases for Arkansas Department of Correction (ADC) inmate costs and construction costs for additional beds.

**Change from current law**<sup>2</sup> Amends Arkansas Code Annotated § 16-93-612, concerning the date of an offense as it pertains to a person’s parole eligibility date, to add an additional subsection. Under the proposed bill, if an offender sentenced to the Arkansas Department of Correction (ADC) has three or more separate commitments to ADC for different cases, that offender is required to serve at least eighty percent (80%) of the sentence before being eligible for parole on his or her fourth or subsequent commitment.

**Impact Information**

The following projection was prepared with the help of JFA Associates, Denver, CO, using the Wizard Microsimulation Projection Model. This impact assessment is based on data from the current prison population projection using Arkansas Department of Correction (ADC) data from the calendar year ending December 31, 2015.

The projected impact on the resources of ADC is shown in the following table. The impact represents the increase in the current baseline ADC population over the next ten-year period. Additional budgetary requirements are calculated using \$22,0816.15 as the average annual cost of care per inmate. This impact is limited to the effect of this proposed bill, meaning the cost listed is that which is above and beyond projected baseline prison population growth. Further, this projected impact does not include any costs associated with building new prison beds.

In order to determine the annual increase in population, an ADC admissions file was created containing those inmates who were admitted to prison in the calendar year ending December 31, 2015, who also had three or more prior commitments to ADC. The sentences of those offenders were then analyzed to determine their projected length of sentence under current parole eligibility laws (see attached code sections). The length of

<sup>1</sup> This impact assessment was prepared (03/22/2017, 3:54 p.m.) by the staff of the Arkansas Sentencing Commission pursuant to A. C. A. § 16-90-802(d)(6) with data supplied by the Arkansas Department of Correction and the Administrative Office of the Courts. A microsimulation model may be used for bills which have the potential for significant impact on correctional resources. The following designations will be used: “minimal” = less than 10 offenders per year will be affected; “medium” = would require budgetary increases for ADC inmate costs; and “major” = would require budgetary increases for ADC inmate costs and construction costs for additional beds.

<sup>2</sup> Standard punishment ranges:

Class Y	10-40 years or life	Class C	3-10 years; up to \$10,000	Class A	Up to 1 year; up to \$2,500
Class A	6-30 years; up to \$15,000	Class D	0-6 years; up to \$10,000	Class B	Up to 90 days; up to \$1,000
Class B	5-20 years; up to \$15,000	Unclassified	As specified in statute	Class C	Up to 30 days; up to \$500

stay under currently existing law was subtracted from the proposed length of stay of 80% to determine the “Increased Length of Stay” under the proposed bill. This was applied to the total number of offenders in each group to determine the projected increase in inmate population. The following table details the results of this analysis.

<b>Year</b>	<b>Annual Increase in Population</b>	<b>Additional Annual Cost of Inmate Care</b>
2017	0	\$0.00
2018	873	\$19,281,208.95
2019	1,745	\$38,540,331.75
2020	2,466	\$54,464,445.90
2021	3,110	\$68,687,926.50
2022	3,691	\$81,519,979.65
2023	4,213	\$93,048,949.95
2024	4,642	\$102,523,908.30
2025	5,116	\$112,992,743.40
2026	5,499	\$121,451,738.85

**10 year total: \$692,511,233.25**

**A.C.A. § 16-93-612. Parole eligibility -- Date of offense.**

(a) A person's parole eligibility shall be determined by the laws in effect at the time of the offense for which he or she is sentenced to the Department of Correction.

(b) For an offender serving a sentence for a felony committed before April 1, 1977, § 16-93-601 governs that person's parole eligibility.

(c) For an offender serving a sentence for a felony committed between April 1, 1977, and April 1, 1983, § 16-93-604 governs that person's parole eligibility.

(d) For an offender serving a sentence for a felony committed on or after April 1, 1983, but before January 1, 1994, § 16-93-607 governs that person's parole eligibility.

(e) For an offender serving a sentence for a felony committed on or after January 1, 1994, § 16-93-614 governs that person's parole eligibility, unless otherwise noted and except:

(1) If the felony is murder in the first degree, § 5-10-102, kidnapping, if a Class Y felony, § 5-11-102(b)(1), aggravated robbery, § 5-12-103, rape, § 5-14-103, or causing a catastrophe, § 5-38-202(a), and the offense occurred after July 28, 1995, § 16-93-618 governs that person's parole eligibility;

(2) If the felony is manufacturing methamphetamine, § 5-64-423(a) or the former § 5-64-401, or possession of drug paraphernalia with the intent to manufacture methamphetamine, the former § 5-64-403(c)(5), and the offense occurred after April 9, 1999, § 16-93-618 governs that person's parole eligibility; or

(3) If the felony is battery in the second degree, § 5-13-202, aggravated assault, § 5-13-204, terroristic threatening, § 5-13-301, domestic battering in the second degree, § 5-26-304, or residential burglary, § 5-39-201, and the offense occurred on or after April 1, 2015, § 16-93-620 governs that person's parole eligibility.

(f) For an offender serving a sentence for a felony committed on or after January 1, 1994, § 16-93-615 governs that person's parole eligibility procedures.

**HISTORY:** Acts 2011, No. 570, § 97; 2015, No. 895, § 24.

**A.C.A. § 16-93-613. Parole eligibility -- Class Y, Class A, or Class B felonies.**

(a) A person who commits a Class Y felony, Class A felony, or Class B felony, except those drug offenses addressed in § 16-93-618 or those Class Y felonies addressed in § 16-93-614 or § 16-93-618, and who shall be convicted and incarcerated for that felony, shall be eligible for release on parole as follows:

(1) An inmate under sentence of death or life imprisonment without parole is not eligible for release on parole but may be pardoned or have his or her sentence commuted by the Governor, as provided by law; and

(2) (A) An inmate sentenced to life imprisonment is not eligible for release on parole unless the sentence is commuted to a term of years by executive clemency.

(B) Upon commutation, the inmate is eligible for release on parole as provided in this subchapter.

(b) For parole eligibility purposes, consecutive sentences by one (1) or more courts or for one (1) or more counts are to be considered as a single commitment reflecting the cumulative sentence to be served.

HISTORY: Acts 2011, No. 570, § 98.

**A.C.A. § 16-93-614. Parole eligibility -- Offenses committed after January 1, 1994 -- Definition.**

(a) As used in this section and §§ 16-93-615 -- 16-93-617, "felonies" means those crimes classified as Class Y felonies, Class A felonies, Class B felonies, Class C felonies, Class D felonies, or unclassified felonies by the laws of this state.

(b) (1) A person who committed a felony before January 1, 1994, and who was convicted and incarcerated for that felony shall be eligible for release on parole under this section and §§ 16-93-615 -- 16-93-617 in accordance with the parole eligibility law in effect at the time the crime was committed.

(2) A person who committed a target offense under the Community Punishment Act, § 16-93-1201 et seq., before January 1, 1994, and who has not been sentenced to a term of incarceration may waive the right to be released under the parole eligibility law in effect at the time the crime was committed and shall become eligible for judicial transfer pursuant to the transfer provisions provided in subdivision (c)(2) of this section.

(3) A person who has committed a felony who is within a target group as currently defined under § 16-93-1202(10) and who is released on parole shall be eligible, pursuant to rules and regulations established by the Parole Board, for commitment to a community correction facility if he or she is found to be in violation of any of his or her parole conditions, unless the parole violation constitutes a nontarget felony offense.

(c) A person who commits a felony on or after January 1, 1994, and who shall be convicted and incarcerated for that felony shall be eligible for transfer to community correction as follows:

(1) (A) An inmate under sentence of death or life imprisonment without parole shall not be eligible for transfer, but may be pardoned or have his or her sentence commuted by the Governor as provided by law.

(B) An inmate sentenced to life imprisonment shall not be eligible for transfer unless his or her sentence is commuted to a term of years by executive clemency.

(C) Upon commutation, an inmate shall be eligible for transfer as provided in this section;

(2) (A) (i) (a) An offender convicted of a target offense under the Community Correction Act, § 16-93-1201 et seq., may be committed to the Department of Correction and judicially transferred to the Department of Community Correction by specific provision in the commitment that the trial court order such a transfer.

(b) No other offender is eligible for transfer to a Department of Community Correction facility.

(ii) A copy of the commitment shall be forwarded immediately to the Department of Correction and to the Department of Community Correction.

(iii) In the event that an offender is sentenced to the Department of Correction without judicial transfer on one (1) sentence and concurrently sentenced to the Department of Correction with judicial transfer on another sentence, the offender shall remain in the Department of Correction, and the sentence with judicial transfer may be discharged in the same manner as that of an offender transferred back to the Department of Correction.

(B) The Department of Community Correction shall take over supervision of the offender in accordance with the order of the court.

(C) The Department of Community Correction shall provide for the appropriate disposition of the offender as expeditiously as practicable under rules and regulations developed by the Board of Corrections.

(D) The offender shall not be transported to the Department of Correction on the initial placement in a Department of Community Correction facility pursuant to a judicial transfer.

(E) An offender who is transferred back to the Department of Correction for disciplinary reasons may be considered for transfer to Department of Community Correction supervision after earning good-time credit equal to one-half (1/2) of the remainder of his or her sentence.

(F) An offender who is sentenced after July 31, 2007, and who is transferred back to the Department of Correction for administrative reasons is eligible for transfer to Department of Community Correction supervision in the same manner as an offender who is sentenced to the Department of Correction without a judicial transfer to the Department of Community Correction; and

(3) (A) Every other classified or unclassified felon who is incarcerated therefor shall be eligible for transfer to community correction after having served one-third (1/3) or one-half (1/2), with credit for meritorious good time, of his or her sentence depending on the seriousness determination made by the Arkansas Sentencing Commission, or one-half (1/2), with credit for meritorious good time, of the time to which his or her sentence is commuted by executive clemency.

(B) For example, a six-year sentence with optimal meritorious good-time credits will make the offender eligible for transfer in one (1) year if he or she is required to serve one-third (1/3) of his or her sentence, or one and one-half (1 1/2) years if he or she is required to serve one-half (1/2) of his or her sentence.

**HISTORY:** Acts 2011, No. 570, § 99.

**A.C.A. § 16-93-615. Parole eligibility procedures -- Offenses committed after January 1, 1994.**

(a) (1) (A) An inmate under sentence for any felony, except those listed in subsection (b) of this section, shall be transferred from the Department of Correction to the Department of Community Correction under this section and §§ 16-93-614, 16-93-616, and 16-93-617, subject to rules promulgated by the Board of Corrections or the Parole Board and conditions adopted by the Parole Board.

(B) The determination under subdivision (a)(1)(A) of this section shall be made by reviewing information such as the result of the risk-needs assessment to inform the decision of whether to release a person on parole by quantifying that person's risk to reoffend, and if parole is granted, this information shall be used to set conditions for supervision.

(C) The Parole Board shall begin transfer release proceedings or a preliminary review under this subchapter no later than six (6) months before a person's transfer eligibility date, and the Parole Board shall authorize jacket review procedures no later than six (6) months before a person's transfer eligibility at all institutions holding parole-eligible inmates to prepare parole applications.

(D) This review may be conducted without a hearing when the inmate has not received a major disciplinary report against him or her that resulted in the loss of good time, there has not been a request by a victim to have input on transfer conditions, and there is no indication in the risk-needs assessment review that special conditions need to be placed on the inmate.

(2) (A) When one (1) or more of the circumstances in subdivision (a)(1) of this section are present, the Parole Board shall conduct a hearing to determine the appropriateness of the inmate for transfer.

(B) The Parole Board has two (2) options:

(i) To transfer the individual to the Department of Community Correction accompanied by notice of conditions of the transfer, including without limitation:

(a) Supervision levels;

(b) Economic fee sanction;

(c) Treatment program;

(d) Programming requirements; and

(e) Facility placement when appropriate; or

(ii) To deny transfer based on a set of established criteria and to accompany the denial with a prescribed course of action to be undertaken by the inmate to rectify the Parole Board's concerns.

(C) Upon completion of the course of action determined by the Parole Board and after final review of the inmate's file to ensure successful completion, the Parole Board shall authorize the inmate's transfer to the Department of Community Correction under this section and §§ 16-93-614, 16-93-616, and 16-93-617, in accordance with administrative policies and procedures governing the transfer and subject to conditions attached to the transfer.

(3) Should an inmate fail to fulfill the course of action outlined by the Parole Board to facilitate transfer to community correction, it shall be the responsibility of the inmate to petition the Parole Board for rehearing.

(4) (A) The Parole Board shall conduct open meetings and shall make public its findings for each eligible candidate for parole.

(B) (i) Open meetings held under subdivision (a)(2)(A) of this section may be conducted through video-conference technology if the person is housed at that time in a county jail and if the technology is available.

(ii) Open meetings utilizing video-conference technology shall be conducted in public.

(5) Inmate interviews and related deliberations may be closed to the public.

(b) (1) An inmate under sentence for one (1) of the following felonies is eligible for discretionary transfer to the Department of Community Correction by the Parole Board after having served one-third (1/3) or one-half (1/2) of his or her sentence, with credit for meritorious good time, depending on the seriousness determination made by the Arkansas Sentencing Commission, or one-half (1/2) of the time to which his or her sentence is commuted by executive clemency, with credit for meritorious good time:

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

(i) Capital murder, § 5-10-101, or attempted capital murder;

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

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

(iv) Manslaughter, § 5-10-104;

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

(vi) An offense under § 5-54-201 et seq.;

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

(i) Kidnapping, § 5-11-102;

(ii) Aggravated robbery, § 5-12-103, or attempted aggravated robbery;

(iii) Terroristic act, § 5-13-310;

(iv) Causing a catastrophe, § 5-38-202(a);

(v) Arson, § 5-38-301;

(vi) Aggravated residential burglary, § 5-39-204; or

(vii) Unlawful discharge of a firearm from a vehicle, § 5-74-107;

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

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

(E) Domestic battering in the first degree, § 5-26-303;

(F) Engaging in a continuing criminal enterprise, § 5-64-405; or

(G) Simultaneous possession of drugs and firearms, § 5-74-106.

(2) The transfer of an offender convicted of an offense listed in subdivision (b)(1) of this section is not automatic.

(3) (A) Review of an inmate convicted of the enumerated offenses in subdivision (b)(1) of this section shall be based upon policies and procedures adopted by the Parole Board for the review, and the Parole Board shall conduct a risk-needs assessment review.



**(B)** The policies and procedures shall include a provision for notification of the victim or victims that a hearing shall be held and records kept of the proceedings and that there be a listing of the criteria upon which a denial may be based.

**(4)** Any transfer of an offender specified in this subsection shall be issued upon an order, duly adopted, of the Parole Board in accordance with such policies and procedures.

**(5)** After the Parole Board has fully considered and denied the transfer of an offender sentenced for committing an offense listed in subdivision (b)(1) of this section, the Parole Board may delay any reconsideration of the transfer for a maximum period of two (2) years.

**(6)** Notification of the court, prosecutor, county sheriff, and the victim or the victim's next of kin for a person convicted of an offense listed in subdivision (b)(1) of this section shall follow the procedures set forth below:

**(A) (i)** Before the Parole Board shall grant any transfer, the Parole Board shall solicit the written or oral recommendations of the committing court, the prosecuting attorney, and the county sheriff of the county from which the inmate was committed.

**(ii)** If the person whose transfer is being considered by the Parole Board was convicted of one (1) of the offenses enumerated in subdivision (b)(1) of this section, the Parole Board shall also notify the victim of the crime or the victim's next of kin of the transfer hearing and shall solicit written or oral recommendations of the victim or his or her next of kin regarding the granting of the transfer unless the prosecuting attorney has notified the Parole Board at the time of commitment of the prisoner that the victim or his or her next of kin does not want to be notified of future transfer hearings.

**(iii)** The recommendations shall not be binding upon the Parole Board in the granting of any transfer but shall be maintained in the inmate's file.

**(iv)** When soliciting recommendations from a victim of a crime, the Parole Board shall notify the victim or his or her next of kin of the date, time, and place of the transfer hearing;

**(B) (i)** The Parole Board shall not schedule transfer hearings at which victims or relatives of victims of crimes are invited to appear at a facility wherein inmates are housed other than the Central Administration Building of the Department of Correction at Pine Bluff.

**(ii)** Nothing herein shall be construed as prohibiting the Parole Board from conducting transfer hearings in two (2) sessions, one (1) at the place of the inmate's incarceration for interviews with the inmate, the inmate's witnesses, and correctional personnel, and the second session for victims and relatives of victims as set out in subdivision (b)(6)(B)(i) of this section;

**(C) (i)** At the time that any person eligible under subdivision (c)(1) of this section is transferred by the Parole Board, the Department of Community Correction shall give written notice of the granting of the transfer to the county sheriff, the committing court, and the chief of police of each city of the first class of the county from which the person was sentenced.

**(ii)** If the person is transferred to a county other than that from which he or she was committed, the Parole Board shall give notice to the chief of police or marshal of the city to which he or she is transferred, to the chief of police of each city of the first class and the county sheriff of the county to which he or she is transferred, and to the county sheriff of the county from which the person was committed; and

**(D) (i)** It shall be the responsibility of the prosecuting attorney of the county from which the inmate was committed to notify the Parole Board at the time of commitment of the desire of the victim or his or her next of kin to be notified of any future transfer hearings and to forward to the Parole Board the last known address and telephone number of the victim or his or her next of kin.

**(ii)** It shall be the responsibility of the victim or his or her next of kin to notify the Parole Board of any change in address or telephone number.

**(iii)** It shall be the responsibility of the victim or his or her next of kin to notify the Parole Board after the date of commitment of any change in regard to the desire to be notified of any future transfer hearings.

**(c) (1)** In all other felonies, before the Parole Board sets conditions for transfer of an inmate to community correction, a victim, or his or her next of kin in cases in which the victim is unable to express his or her wishes, who has expressed the wish to be consulted by the Parole Board shall be notified of the date, time, and place of the transfer hearing.

**(2) (A)** A victim or his or her next of kin who wishes to be consulted by the Parole Board shall inform the Parole Board in writing at the time of sentencing.

**(B)** A victim or his or her next of kin who does not so inform the Parole Board shall not be notified by the Parole Board.

**(3) (A)** Victim input to the Parole Board shall be limited to oral or written recommendations on conditions relevant to the offender under review for transfer.

**(B)** The recommendations shall not be binding on the Parole Board, but shall be given due consideration within the resources available for transfer.

**(d) (1)** The Parole Board shall approve a set of conditions that shall be applicable to all inmates transferred from the Department of Correction to the Department of Community Correction.

**(2)** The set of conditions is subject to periodic review and revision as the Parole Board deems necessary.

**(e) (1)** The course of action required by the Parole Board shall not be outside the current resources of the Department of Correction nor the conditions set be outside the current resources of the Department of Community Correction.

**(2)** However, the Department of Correction and Department of Community Correction shall strive to accommodate the actions required by the Board of Corrections or the Parole Board to the best of their abilities.

**(f)** Transfer is not an award of clemency, and it shall not be considered as a reduction of sentence or a pardon.

**(g)** Every inmate while on transfer status shall remain in the legal custody of the Department of Correction under the supervision of the Department of Community Correction and subject to the orders of the Parole Board.

**(h)** An inmate who is sentenced under the provisions of § 5-4-501(c) or § 5-4-501(d) for a serious violent felony or a felony involving violence may be considered eligible for parole or for community correction transfer upon reaching regular parole or transfer eligibility, but only after reaching a minimum age of fifty-five (55) years.

**(i)** Decisions on parole release, courses of action applicable prior to transfer, and transfer conditions to be set by the Parole Board shall be based on a reasoned and rational plan developed in conjunction with an accepted risk-needs assessment tool such that each decision is defensible based on preestablished criteria.

**HISTORY:** Acts 2011, No. 570, § 100; 2013, No. 136, § 1; 2013, No. 485, § 1; 2015, No. 609 §§ 2, 3; 2015, No. 895, § 25; 2015, No. 1152, § 16.

**A.C.A. § 16-93-616. Parole eligibility procedures -- Offenses committed after January 1, 1994 -- Computation of sentence.**

- (a)
  - (1) Time served for a sentence shall be deemed to begin on the day sentence is imposed, not on the day a prisoner is received by the Department of Correction.
  - (2) Time served shall continue only during the time in which an individual is actually confined in a county jail or other local place of lawful confinement or while under the custody and supervision of the department.
  - (3) Once sentenced to the department, the department shall retain legal custody of the inmate for the duration of the original sentence.
- (b) The sentencing judge shall direct, when he or she imposes sentence, that time already served by the defendant in jail or other place of detention shall be credited against the sentence.

**HISTORY:** Acts 2011, No. 570, § 101.

**A.C.A. § 16-93-617. Parole eligibility procedures -- Offenses committed after January 1, 1994 -- Revocation of transfer.**

(a) In the event an offender transferred under this section, §§ 16-93-614 -- 16-93-616, or § 16-93-618 violates the terms or conditions of his or her transfer, a hearing shall follow all applicable legal requirements and shall be subject to any additional policies, rules, and regulations set by the Parole Board.

(b) (1) In the event an offender transferred under this section and §§ 16-93-614 -- 16-93-616, or § 16-93-618 is found to be or becomes ineligible for transfer into a Department of Community Correction facility, he or she shall be transported to the Department of Correction to serve the remainder of his or her sentence.

(2) Notice of the ineligibility and the reasons therefor shall be provided to the offender, and a hearing may be requested before the board if the offender contests the factual basis of the ineligibility. Otherwise, the board may administratively approve the transfer to the Department of Correction.

(c) An offender who is judicially transferred to a Department of Community Correction facility and subsequently transferred back to the Department of Correction by the board for disciplinary or administrative reasons may not become eligible for any further transfer under § 16-93-614(c)(2)(E) and (F).

**HISTORY:** Acts 2011, No. 570, § 102.

**A.C.A. § 16-93-618. Parole eligibility -- Certain Class Y felony offenses and certain methamphetamine offenses -- Seventy-percent crimes.**

- (a) (1) Notwithstanding any law allowing the award of meritorious good time or any other law to the contrary, a person who is found guilty of or pleads guilty or nolo contendere to subdivisions (a)(1)(A)-(I) of this section shall not be eligible for parole or community correction transfer, except as provided in subdivision (a)(3) or subsection (c) of this section, until the person serves seventy percent (70%) of the term of imprisonment to which the person is sentenced, including a sentence prescribed under § 5-4-501:
- (A) Murder in the first degree, § 5-10-102;
  - (B) Kidnapping, Class Y felony, § 5-11-102;
  - (C) Aggravated robbery, § 5-12-103;
  - (D) Rape, § 5-14-103;
  - (E) Trafficking of persons, Class Y felony, § 5-18-103;
  - (F) Causing a catastrophe, § 5-38-202(a);
  - (G) Manufacturing methamphetamine, § 5-64-423(a) or the former § 5-64-401;
  - (H) Trafficking methamphetamine, § 5-64-440(b)(1); or
  - (I) Possession of drug paraphernalia with the purpose to manufacture methamphetamine, former § 5-64-403(c)(5).
- (2) (A) The seventy-percent provision of subdivision (a)(1) of this section has no application to any person who is found guilty of or pleads guilty or nolo contendere to kidnapping, Class B felony, § 5-11-102, regardless of the date of the offense.
- (B) The provisions of this section shall apply retroactively to all persons presently serving a sentence for kidnapping, Class B felony, § 5-11-102.
- (3) (A) (i) Regardless of the date of the offense, the seventy-percent provision under subdivision (a)(1) of this section shall include credit for the award of meritorious good time under § 12-29-201 to any person who is found guilty of or pleads guilty or nolo contendere to:
- (a) Manufacturing methamphetamine, § 5-64-423(a) or former § 5-64-401;
  - (b) Trafficking methamphetamine, § 5-64-440(b)(1); or
  - (c) Possession of drug paraphernalia with the purpose to manufacture methamphetamine, former § 5-64-403(c)(5).
- (ii) Regardless of the date of the offense and unless the person is sentenced to a term of life imprisonment, the seventy-percent provision under subdivision (a)(1) of this section may include credit for the award of meritorious good time under § 12-29-202 to any person who is found guilty of or pleads guilty or nolo contendere to:
- (a) Manufacturing methamphetamine, § 5-64-423(a) or the former § 5-64-401;
  - (b) Trafficking methamphetamine, § 5-64-440(b)(1); or
  - (c) Possession of drug paraphernalia with the purpose to manufacture methamphetamine, former § 5-64-403(c)(5).
- (B) In no event shall the time served by any person who is found guilty of or pleads guilty or nolo contendere to manufacturing methamphetamine, § 5-64-423(a) or former § 5-64-401, trafficking methamphetamine, § 5-64-440(b)(1), or possession of drug paraphernalia with the purpose to manufacture methamphetamine, § 5-64-443(a)(2), be reduced to less than fifty percent (50%) of the person's original sentence.
- (4) (A) When any person sentenced under subdivision (a)(3) of this section becomes eligible for parole, the Department of Community Correction shall send a notice of the parole hearing to the prosecuting attorney of the judicial district or districts in which the person was found guilty or pleaded guilty or nolo contendere to an offense listed in subdivision (a)(1) of this section.

**(B)** The notice shall contain the following language in 12-point capital letters, bold type: "INMATE SENTENCED UNDER ARKANSAS CODE § 16-93-618".

**(b)** A jury may be instructed under § 16-97-103 regarding the awarding of meritorious good time under subdivision (a)(3) of this section.

**(c)** The sentencing judge, in his or her discretion, may waive subsection (a) of this section under the following circumstances:

- (1)** The defendant was a juvenile at the time of the offense;
- (2)** The juvenile was merely an accomplice to the offense; and
- (3)** The offense occurred on or after July 28, 1995.

**(d)** The awarding of meritorious good time under § 12-29-201 or § 12-29-202 does not apply to persons sentenced under subdivisions (a)(1)(A)-(E) of this section.

**(e)** A person who commits the offense of possession of drug paraphernalia with the purpose to manufacture methamphetamine, § 5-64-443, after July 27, 2011, shall not be subject to the provisions of this section.

**HISTORY:** Acts 2011, No. 570, § 103; 2013, No. 132, § 7; 2013, No. 133, § 7; 2013, No. 1335, § 4.

**A.C.A. § 16-93-620. Parole eligibility procedures -- Certain offenses committed on or after April 1, 2015.**

(a) An inmate sentenced for one (1) of the following felonies on or after April 1, 2015, is eligible for discretionary transfer to the Department of Community Correction by the Parole Board after having served one-third (1/3) or one-half (1/2) of his or her sentence, with credit for meritorious good time, depending on the seriousness determination made by the Arkansas Sentencing Commission, or one-half (1/2) of the time to which his or her sentence is commuted:

- (1) Battery in the second degree, § 5-13-202;
- (2) Aggravated assault, § 5-13-204;
- (3) Terroristic threatening, § 5-13-301;
- (4) Domestic battering in the second degree, § 5-26-304; or
- (5) Residential burglary, § 5-39-201.

(b) The transfer of an inmate convicted of an offense listed in this section is not automatic.

(c) All other provisions governing the procedures regarding the granting and administration of parole for persons convicted of an offense listed under subsection (a) of this section shall be governed by §§ 16-93-615 -- 16-93-617.

**HISTORY:** Acts 2015, No. 895, § 26.