

State of Arkansas

76th General Assembly

Regular Session, 1987 AS ENGROSSED 2/27/87

HOUSE BILL 1709

By: Reps. Pollan and Hays

"AN ACT TO AMEND SECTIONS 803 AND 804 OF ACT 280 OF 1975 [ARK. STATS. 41-803 AND 41-804] TO GRANT JURISDICTION TO THE SENTENCING COURT TO ASSESS RELATED EXPENSES INCURRED IN SEARCHING FOR OR RETURNING A MISSING CHILD; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 803 of Act 280 of 1975, the same being Arkansas Statute 41-803, is hereby amended to read as follows:

"Section 803. (1) No defendant convicted of an offense shall be sentenced otherwise than in accordance with this Article.

(2) A defendant convicted of capital murder or treason shall be sentenced to death or life imprisonment without parole in accordance with Chapter 13.

(3) A defendant convicted of a Class Y felony or murder in the second degree shall be sentenced to a term of imprisonment in accordance with Chapter 9.

(4) A defendant convicted of an offense other than a Class Y felony, capital murder, treason, or murder in the second degree may be sentenced to any one or more of the following, except as precluded by subsection 5 of this Section below:

- (a) imprisonment as authorized by Chapter 9; or
- (b) probation as authorized by Chapter 12; or
- (c) pay a fine as authorized by Chapter 11; or
- (d) make restitution; or
- (e) imprisonment and to pay a fine.

(5) If a defendant pleads or is found guilty of an offense other than capital murder, treason, a Clas Y felony or murder in the second degree, the court may suspend imposition of sentence or place the defendant on probation,

in accordance with Chapter 12 of this Article. If the offense is punishable by fine and imprisonment, the court may sentence defendant to pay a fine and suspend imposition of sentence as to imprisonment or place him on probation. The court may sentence the defendant to a term of imprisonment and suspend imposition of sentence as to an additional term of imprisonment, but the court shall not sentence a defendant to imprisonment and place him on probation, except as authorized by Section 1204. The court shall not suspend imposition of sentence, place the defendant on probation or sentence him to pay a fine if it is determined, pursuant to Section 1005, that the defendant has previously been convicted of two (2) or more felonies.

(6) This Article does not deprive the court of any authority conferred by law to order a forfeiture of property, suspend or cancel a license, dissolve a corporation, remove a person from office, cite for contempt, impose any civil penalty or assess costs as set forth in Subsection (7) hereof.

(7) A defendant convicted of violating Section 1706 hereof, as amended, or Act 540 of 1985, or any amendatory acts thereto in which a minor was unlawfully detained, restrained, taken, enticed, or kept, may be assessed and ordered to pay expenses incurred by law enforcement agencies, the Department of Human Services, or the lawful custodian in searching for or returning the minor to the lawful custodian."

SECTION 2. Section 804 of Act 280 of 1975, the same being Arkansas Statute 41-804, is hereby amended to read as follows:

"Section 804. (1) If punishment is fixed by the court, the court may order a pre-sentence investigation before imposing sentence.

(2) The pre-sentence investigation should be conducted by a pre-sentence officer or other person designated by the court and should include an analysis of the circumstances surrounding the commission of the offense, the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the investigator deems relevant or the court directs to be included. In cases involving a violation of Section 1706 hereof, as amended, or Act 540 of 1985 and any amendatory acts thereto, in which a minor was unlawfully detained, restrained, taken, enticed or kept, the investigation shall include ascertaining those expenses incurred by law enforcement agencies, the Department of Human Services and the lawful

custodian in searching for and returning the minor to the lawful custodian.

(3) Before imposing sentence, the court may order the defendant to submit to psychiatric examination and evaluation for a period not to exceed thirty (30) days. The defendant may be remanded for this purpose to the State Hospital or the court may appoint a qualified psychiatrist to make the examination and evaluation.

(4) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any pre-sentence investigation or psychiatric examination and afford fair opportunity, if the defendant so requests, to controvert them. Sources of confidential information need not be disclosed.

(5) If the defendant is sentenced to imprisonment, a copy of the report of any pre-sentence investigation or psychiatric examination shall be transmitted forthwith to the Department of Correction or, when the defendant is committed to the custody of a specific institution, to that institution."

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

/s/ Carolyn Pollan, et al

