

1 **State of Arkansas**
2 **79th General Assembly**
3 **Second Extraordinary Session, 1994**
4 **By: Representative Beatty**

Call Item 41

A Bill

HOUSE BILL 1038

For An Act To Be Entitled

8 "AN ACT TO DEFINE THE TERM RECORDS FOR THE PURPOSES OF
9 COMPUTING CRIMINAL HISTORY SCORES; AND FOR OTHER
10 PURPOSES."

Subtitle

13 "TO DEFINE THE TERM RECORDS FOR THE
14 PURPOSES OF COMPUTING CRIMINAL HISTORY
15 SCORES; AND FOR OTHER PURPOSES."

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

19 *SECTION 1. Arkansas Code 16-90-803(b) (1) and (2) are amended to read*
20 *as follows:*

21 *"(1) Offense Seriousness. The offense seriousness level is determined*
22 *by the offense of conviction or the offense for which the person was found*
23 *guilty or to which the person pled guilty or nolo contendere.*

24 *(A) Felony offenses are divided into ten (10) levels of*
25 *seriousness, ranging from low, seriousness level I, to high, seriousness level*
26 *X.*

27 *(B) The typical cases for the offenses listed within each level*
28 *of seriousness are deemed to be generally equivalent in seriousness.*

29 *(C) The most frequently occurring offenses within each*
30 *seriousness level are listed on the vertical axis of the sentencing standards*
31 *grid.*

32 *(D) The seriousness level for infrequently occurring offenses can*
33 *be determined by consulting the offense seriousness reference table.*

34 *(E) The seriousness level for inchoate offenses is one (1) level*
35 *below the level for substantive offenses.*

1 (2) Offender History. An offender's criminal history score constitutes
2 the horizontal axis of the sentencing standards grid.

3 (A) The offender's criminal history score shall be computed from
4 the following:

5 (i) Prior felony records;

6 (ii) Prior misdemeanor records;

7 (iii) Prior juvenile records under certain circumstances outlined
8 below; and

9 (iv) Custody status at the time of the offense.

10 (B) The term records for the purpose of computing criminal
11 history scores shall include convictions; findings of guilt; acceptance of a
12 plea of guilty or nolo contendere; instances where the defendant has been
13 placed on probation, suspended imposition of sentence, or suspended execution
14 of sentence; records which have been expunged after August 31, 1994; and
15 dismissals ordered after August 31, 1994 pursuant to the First Offender Act, §
16 16-93-303.

17 (C) The specific weight to be assigned to the various criteria is
18 as follows:

19 (i) Weight is assigned to prior felony records according to
20 seriousness level, as follows:

21 (a) Seriousness levels I, II, III, IV, and V = one-half
22 (.5) point;

23 (b) Seriousness levels VI, VII, VIII, IX, and X = one (1)
24 point;

25 (ii) Weight is assigned only to Class A misdemeanors. Each Class
26 A misdemeanor is worth one-quarter (.25) point. No more than one (1) point
27 may be accrued from misdemeanor records;

28 (iii) Weight is assigned only to judicial adjudications of
29 delinquency for offenses for which the juvenile could have been tried as an
30 adult and which the trial court deems relevant to sentencing in the current
31 proceeding.

32 (a) Each adjudication is worth one-quarter (.25) point,
33 except for offenses adjudicated as delinquent which would have constituted
34 capital murder, § 5-10-101; murder in the first degree, § 5-10-102; murder in
35 the second degree, § 5-10-103; kidnapping in the first degree, § 5-11-102;

1 aggravated robbery, § 5-12-103; rape, § 5-14-103; or battery in the first
2 degree, § 5-13-201, if committed by an adult, which are worth one (1) point.

3 (b) No more than one (1) point may be accrued from juvenile
4 offenses unless one (1) of the offenses adjudicated as delinquent would have
5 constituted capital murder, § 5-10-101; murder in the first degree, §
6 5-10-102; murder in the second degree, § 5-10-103; kidnapping in the first
7 degree, § 5-11-102; aggravated robbery, § 5-12-103; rape, § 5-14-103; or
8 battery in the first degree, § 5-13-201, if committed by an adult; then an
9 offender may receive no more than two (2) points for juvenile offenses;

10 (iv) One (1) point is to be added to an offender's score if the
11 offender is under any type of criminal justice restraint for a felony offense
12 at the time that he committed the crime for which he is being sentenced. Such
13 restraint includes pretrial bond, suspended imposition of sentence, probation,
14 parole, post prison supervision, and release pending sentencing for a prior
15 crime;

16 (v) (a) Juvenile offenses must have occurred within ten (10)
17 years of the time of the offense for which an offender is being currently
18 sentenced.

19 (b) Misdemeanor offenses must have occurred within ten (10)
20 years of the time of the offense for which an offender is currently being
21 sentenced.

22 (c) Felony offenses at seriousness levels I-V will not be
23 counted if a period of fifteen (15) years has elapsed since the date of
24 discharge from, or expiration of, the sentence to the date of the current
25 offense; and

26 (vi) When multiple sentences for a single course of conduct were
27 imposed, only the offense at the highest seriousness level is considered."

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29 SECTION 2. All provisions of this act of a general and permanent nature
30 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
31 Revision Commission shall incorporate the same in the Code.

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33 SECTION 3. If any provision of this act or the application thereof to
34 any person or circumstance is held invalid, such invalidity shall not affect
35 other provisions or applications of the act which can be given effect without

1 the invalid provision or application, and to this end the provisions of this
2 act are declared to be severable.

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4 SECTION 4. All laws and parts of laws in conflict with this act are
5 hereby repealed.

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7 SECTION 5. EMERGENCY. It is hereby found and determined by the General
8 Assembly that the present law which indicates the records to be used in
9 computing criminal history scores for purposes of sentencing need to be
10 broadened to include records of pleas of guilty and nolo contendere, and
11 probation and suspended sentences; that the broadening of the present law will
12 enhance the criminal penalties for criminal activity and thereby offer greater
13 protection to the citizens of this State from the rising crime rate.
14 Therefore an emergency is hereby declared to exist and this act being
15 necessary for the preservation of the public peace, health and safety shall be
16 in full force and effect from and after its passage and approval.

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/s/Rep. David Beatty

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