

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995

A Bill

HOUSE BILL 1747

4 By: Representative Courtway

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 5-4-501 TO ADD A _THREE
9 STRIKES YOUR OUT_ PROVISION; TO REPEAL ARKANSAS CODE 16-
10 90-202; AND FOR OTHER PURPOSES."

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Subtitle

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"AN ACT CONCERNING PUNISHMENT FOR THIRD
CONVICTION FOR CERTAIN OFFENSES."

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

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18 SECTION 1. Arkansas Code 5-4-501 is amended to add new subsections (d)
19 and (e) to read as follows:

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"(d)(1) When any person shall be convicted or found guilty of capital murder, first degree murder, rape, first degree carnal abuse, Class Y felony kidnapping, aggravated robbery, Class Y felony unlawful discharge of a firearm from a vehicle, manufacturing, delivering, or possessing with intent to deliver a Schedule I or II controlled substance, continuing criminal enterprise under Arkansas Code 5-64-414 (a), a crime of violence or pecuniary gain as defined in Arkansas Code 5-74-103 provided that the offender was a member of a criminal gang, organization, or enterprise as defined in said section, upon the third conviction or finding of guilt of an offense enumerated in this subsection, the person shall be sentenced to life imprisonment without parole, if:

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(A) the person has previously been convicted or found guilty of two (2) of the felonies enumerated in subsection (d)(1); or

(B) the person has previously been convicted or found guilty of two (2) felonies from another jurisdiction comparable to the felonies enumerated in subsection (d)(1); or

1 (C) the person has previously been convicted or found
2 guilty of any combination of two (2) felonies enumerated in subdivisions (A)
3 and (B).

4 (2) The determination of whether a felony conviction *or finding*
5 *of guilt* from another jurisdiction is comparable to one of the enumerated
6 felonies in subsection (d)(1) shall lie within the discretion of the trial
7 judge at the time of sentencing.

8 (e) Nothing in this section shall be construed to abolish or otherwise
9 affect punishment by death for crimes which are punishable by death."

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11 SECTION 2. Arkansas Code 16-90-202 is repealed.

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13 SECTION 3. All provisions of this act of a general and permanent
14 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
15 Code Revision Commission shall incorporate the same in the Code.

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17 SECTION 4. If any provision of this act or the application thereof to
18 any person or circumstance is held invalid, such invalidity shall not affect
19 other provisions or applications of the act which can be given effect without
20 the invalid provision or application, and to this end the provisions of this
21 act are declared to be severable.

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

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26 /s/Rep. Courtway

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