

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

SENATE BILL 863

4
5 By: Senator Edwards
6
7

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 16-112-103 TO CREATE A
10 STATUTE OF LIMITATIONS FOR APPLYING FOR HABEAS CORPUS
11 RELIEF WHEN THE APPLICATION CONCERNS AN ATTACK ON A
12 JUDGEMENT OF CONVICTION; AND FOR OTHER PURPOSES."

Subtitle

13
14
15 "AN ACT TO AMEND ARKANSAS CODE 16-112-103
16 TO CREATE A STATUTE OF LIMITATIONS FOR
17 APPLYING FOR HABEAS CORPUS RELIEF WHEN
18 THE APPLICAITON CONCERNS AN ATTACK ON A
19 JUDGEMENT OF CONVICTION."
20
21

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

24 SECTION 1. Arkansas Code 16-112-103 is amended to read as follows:
25 "16-112-103. Petition.

26 (a) The writ of habeas corpus shall be granted forthwith by any of the
27 officers enumerated in § 16-112-102(a) to any person who shall apply for the
28 writ by petition showing, by affidavit or other evidence, probable cause to
29 believe he is detained without lawful authority or is imprisoned when by law
30 he is entitled to bail.

31 (b)(1) The writ of habeas corpus shall be granted upon the application,
32 and in the name of the father, mother, guardian, or next friend of any ~~married~~
33 ~~woman or infant~~ person, against any person who shall unlawfully have or detain
34 the person in custody or ~~bondage any infant or married woman~~.

35 (2) Similar proceedings shall be had for hearing and determining
36 the cause and affording the relief demanded as in other cases.

1 (c) Writs of habeas corpus shall issue upon the application of the
2 husband, father, mother, guardian, or next friend of any ~~married woman or~~
3 ~~infant~~ person detained by any religious or other association or by persons
4 acting under the authority of the association. The prosecuting attorney, where
5 the detention is made, shall prosecute the writ without fee, if required to do
6 so.

7 (d) If the restraint or confinement is by virtue of any warrant, order,
8 or process, a copy thereof must accompany the petition, or it must appear by
9 affidavit annexed thereto, showing that by reason of the person being
10 concealed before the application, a demand of the copy could not be made, or
11 that the demand was made of the person by whom the prisoner is confined or
12 restrained, and a copy refused.

13 (e) If the restraint or confinement is by virtue of the petitioner
14 having been found guilty at trial or obtained on a plea of guilty and the
15 petitioner did not appeal the judgment of conviction, a petition claiming
16 relief under this provision must be filed in the appropriate court within
17 ninety (90) days of the date of entry of judgment. If the judgment was not
18 entered of record within ten (10) days of the date sentence was pronounced, a
19 petition under this provision must be filed within ninety (90) days of the
20 date sentence was pronounced.

21 (f) If an appeal was taken of the judgment of conviction, a petition
22 claiming relief under this provision must be filed in an appropriate court
23 within sixty (60) days of the date the mandate was issued by the appellate
24 court. In the event an appeal was dismissed, the petition must be filed in an
25 appropriate court within sixty (60) days of the date the appeal was dismissed.
26 If the appellate court affirms the conviction but reverses the sentence, the
27 petition must be filed within sixty (60) days of a mandate following an appeal
28 taken after resentencing. If no appeal is taken after resentencing, then the
29 petition must be filed with the appropriate court within ninety (90) days of
30 the entry of the judgment.

31 (g) The time limitations imposed in this section are jurisdictional in
32 nature, and a circuit court may not grant relief on an untimely petition for
33 relief under this section."

34
35 SECTION 2. All provisions of this act of a general and permanent nature
36 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

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

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