

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: S2/1/05
A Bill

SENATE BILL 113

5 By: Senator Critcher
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8 **For An Act To Be Entitled**

9 AN ACT TO MAKE CERTAIN OFFENDERS ELIGIBLE FOR
10 PAROLE OR COMMUNITY PUNISHMENT TRANSFER UNDER THE
11 SEVENTY-PERCENT RULE; AND OTHER PURPOSES.
12

13 **Subtitle**

14 AN ACT TO MAKE CERTAIN OFFENDERS
15 ELIGIBLE FOR PAROLE OR COMMUNITY
16 PUNISHMENT TRANSFER UNDER THE SEVENTY-
17 PERCENT RULE.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 16-93-611 is amended to read as follows:
23 16-93-611. Class Y felonies.

24 (a)(1) Notwithstanding any law allowing the award of meritorious good
25 time or any other law to the contrary, any person who is found guilty of or
26 who pleads guilty or nolo contendere to:

27 (A) Murder in the first degree, § 5-10-102;

28 (B) Kidnapping, Class Y felony, § 5-11-102;

29 (C) Aggravated robbery, § 5-12-103;

30 (D) Rape, § 5-14-103;

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

32 (F) Except as provided in subdivision (a)(3) of this
33 section, Manufacture manufacture of methamphetamine, § 5-64-401(a)(1)(i); or

34 (G) Except as provided in subdivision (a)(3) of this
35 section, Possession possession of drug paraphernalia with the intent to
36 manufacture methamphetamine, § 5-64-403(c)(5) shall not, except as provided



1 in subsection (b) of this section, be eligible for parole or community
 2 punishment transfer until the person serves seventy percent (70%) of the term
 3 of imprisonment to which the person is sentenced, including a sentence
 4 prescribed under § 5-4-501.

5 (2)(A) The seventy percent (70%) provision of subdivision (a)(1)
 6 of this section has no application to any person who is found guilty of or
 7 pleads guilty or nolo contendere to kidnapping, Class B felony, § 5-11-102,
 8 regardless of the date of the offense.

9 (B) Furthermore, the provisions of this section shall
 10 apply retroactively to all persons presently serving a sentence for
 11 kidnapping, Class B felony, § 5-11-102.

12 (3) On or after the effective date of this subdivision (a)(3),
 13 the seventy-percent provision of subdivision (a)(1) of this section does not
 14 apply to a nonviolent offender who is found guilty of or pleads guilty or
 15 nolo contendere to manufacture of methamphetamine under § 5-64-401(a)(1)(i),
 16 or possession of drug paraphernalia with the intent to manufacture
 17 methamphetamine under § 5-64-403(c)(5) if the offender has served a minimum
 18 of three (3) years of the term of imprisonment to which he or she was
 19 sentenced.

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

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

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 26 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
 27 General Assembly of the State of Arkansas that there is serious overcrowding
 28 in the Department of Correction facilities; that such overcrowding is likely
 29 to worsen unless appropriate action is taken immediately; and that this act
 30 is immediately necessary because it is designed to allow a procedure for
 31 helping to alleviate the overcrowding problem. Therefore, an emergency is
 32 declared to exist and this act being immediately necessary for the
 33 preservation of the public peace, health, and safety shall become effective
 34 on:

- 35 (1) The date of its approval by the Governor;
 36 (2) If the bill is neither approved nor vetoed by the Governor,

1 the expiration of the period of time during which the Governor may veto the
2 bill; or

3 (3) If the bill is vetoed by the Governor and the veto is
4 overridden, the date the last house overrides the veto.

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/s/ Critcher