

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: S2/2/05
A Bill

SENATE BILL 190

5 By: Senator Glover
6 By: Representative J. Johnson
7

8
9 **For An Act To Be Entitled**

10 AN ACT TO REQUIRE THE GOVERNOR TO PROVIDE
11 SPECIFIC REASONS FOR GRANTING CLEMENCY AND TO
12 NOTIFY VICTIMS AND OTHERS OF THE INTENT TO GRANT
13 CLEMENCY; AND FOR OTHER PURPOSES.
14

15 **Subtitle**

16 AN ACT TO REQUIRE THE GOVERNOR TO
17 PROVIDE SPECIFIC REASONS FOR GRANTING
18 CLEMENCY AND TO NOTIFY VICTIMS AND
19 OTHERS OF THE INTENT TO GRANT CLEMENCY.
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21
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 16-93-207 is amended to read as follows:

25 16-93-207. ~~Applications for pardon, commutation of sentence, and~~
26 ~~remission of fines and forfeitures~~ Executive clemency procedures for the
27 Governor.

28 (a)(1)(A) At least thirty (30) days before granting an application for
29 pardon, commutation of sentence, or remission of fine or forfeiture, the
30 Governor shall file with the Secretary of State a notice of his intention to
31 grant such application.

32 (B)(i) The Governor shall also: ~~direct the Department of~~
33 ~~Correction to send~~

34 (a) Send notice in writing of his or her
35 intention to grant clemency to the judge, the prosecuting attorney, and the
36 sheriff or chief law enforcement officer of the arresting agency of the



1 county in which the applicant was convicted; and, ~~if applicable,~~

2 (b) Attempt to send notice to the victim or
3 the victim's next of kin.

4 ~~(ii) The notification to the victim or the victim's~~
5 ~~next of kin shall not be required if the conviction occurred more than ten~~
6 ~~(10) years prior to the filing of the notice under subdivision (a)(1)(A) of~~
7 ~~this section~~ of intent to grant clemency shall contain specific reasons for
8 the Governor's intent to grant clemency.

9 (iii) Prior to granting clemency, the Governor shall
10 accept any objections to the clemency application or the Governor's intent to
11 grant clemency which are submitted in writing to the Governor's office within
12 twenty (20) days of the filing of the notice of intention to grant clemency
13 described in subdivision (a)(1)(A) of this section by:

14 (a) The sheriff or chief law enforcement
15 officer of the arresting agency of the county in which the applicant was
16 convicted;

17 (b) The prosecuting attorney for the county in
18 which the applicant was convicted; or

19 (c) The victim of the crime or the victim's
20 next of kin.

21 (2) The filing of such notice shall not preclude the Governor
22 from later denying the application, but any pardon, commutation of sentence,
23 or remission of fine or forfeiture granted without filing such notice shall
24 be null and void.

25 (b) If the Governor does not grant an application for pardon,
26 commutation of sentence, or remission of fine or forfeiture within one
27 hundred twenty (120) days of the Governor's receipt of the recommendation of
28 the Post Prison Transfer Board regarding the application, the application
29 shall be deemed denied by the Governor, and any pardon, commutation of
30 sentence, or remission of fine or forfeiture granted after the one hundred
31 twenty-day period shall be null and void.

32 (c)(1) If an application for pardon, commutation of sentence, or
33 remission of fine or forfeiture is denied in writing by the Governor, the
34 person filing the application shall not be eligible to file a new application
35 for pardon, commutation of sentence, or remission of fine or forfeiture
36 related to the same offense for a period of four (4) years from the date of

1 the denial.

2 (2) If an application for pardon, commutation of sentence, or
3 remission of fine or forfeiture is deemed denied by the Governor pursuant to
4 subsection (b) of this section, the person filing the application may
5 immediately file a new application for pardon, commutation of sentence, or
6 remission of fine or forfeiture related to the same offense.

7 ~~(d) This section shall not apply to reprieves, and reprieves may be~~
8 ~~granted as presently provided by law~~ Upon granting an application for
9 executive clemency whether by pardon, commutation of sentence, or remission
10 of fine or forfeiture, the Governor shall:

11 (1) In writing, upon the face of the document granting clemency,
12 describe in detail the specific reasons for granting clemency; and

13 (2) Address specifically any objections raised in writing and
14 submitted to the Governor's office pursuant to subdivision (a)(1)(B)(iii) of
15 this section.

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17 SECTION 2. Legislative intent.

18 (a) It is the intent of the General Assembly that the Governor fully
19 inform the public, the victim or the victim's next of kin, prosecutors, and
20 law enforcement agencies of his or her rationale for granting executive
21 clemency.

22 (b) A victim or the victim's next of kin especially have the right to
23 be notified in writing of the clemency granted to a person who has inflicted
24 harm upon the victim.

25 (c) Persons who sought justice on behalf of the victim or the victim's
26 next of kin should be involved in informing the Governor of any objections to
27 clemency applications.

28 (d) Respect for the law, judges, the jury system, and our American
29 system of justice requires that the state's chief executive officer:

30 (1) Carefully consider the facts and circumstances surrounding a
31 particular crime;

32 (2) Carefully consider the consequences of granting clemency to
33 a person who was convicted of harming those whom the law seeks to protect;
34 and

35 (3) Make a full accounting to the citizens of the State of
36 Arkansas for the exercise of the power of executive clemency.

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SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that a lack of information concerning the granting of clemency has eroded public confidence in the justice system; that this act will require the Governor to provide specific reasons for granting clemency and to notify victims and others of the intent to grant clemency; and that this act is immediately necessary because a full accounting for the exercise of the power of executive clemency will expedite the restoration of public confidence in government. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

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

/s/ Glover