

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.

State of Arkansas

As Engrossed: S2/2/05 S2/24/05

85th General Assembly

# A Bill

Regular Session, 2005

SENATE BILL 205

By: Senators Faris, Lavery, Hill

## For An Act To Be Entitled

AN ACT TO ESTABLISH THAT THE TIME LIMIT FOR  
FILING APPLICATIONS FOR EXECUTIVE CLEMENCY BEGINS  
RUNNING ON THE DATE OF FILING OF THE APPLICATION  
RATHER THAN THE DATE OF DENIAL OF THE  
APPLICATION; TO ALLOW THE POST PRISON TRANSFER  
BOARD TO WAIVE THE WAITING PERIOD UNDER CERTAIN  
CIRCUMSTANCES; AND FOR OTHER PURPOSES.

## Subtitle

AN ACT TO CHANGE PROCEDURES CONCERNING  
APPLICATIONS FOR EXECUTIVE CLEMENCY.

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

SECTION 1. Arkansas Code § 5-4-607(d), pertaining to the time  
limitation for filing an application for pardon or commutation, is amended to  
read as follows:

(d)(1) ~~Any~~ Except as provided in subdivision (d)(3) of this section,  
any person who has been convicted of capital murder, § 5-10-101, or of any  
Class Y or Class A felony, excluding nonviolent offenses under the Uniform  
Controlled Substances Act, § 5-64-101 et seq., and who makes an application  
shall not be eligible to reapply for a period of four (4) years after the  
date of filing of the application that was denied, except that a person whose  
application was denied by the Governor after receiving a majority vote by the  
Post Prison Transfer Board in favor of the application is eligible to reapply  
one (1) year after the date the application was denied by the Governor.

(2) ~~Applications made prior to July 30, 1999, shall be included~~



~~in determining whether a person is eligible to reapply~~ Any person who made an application for pardon or commutation that was denied on or after July 1, 2004, shall be eligible to reapply for pardon or commutation four (4) years after the date of filing of the application that was denied.

~~(3)(A) Applications pending on July 30, 1999, that do not meet the requirements of this subdivision (a)(4) shall be dismissed.~~

~~(B) Applications dismissed under this subdivision (a)(4)(C) shall not be included in determining future eligibility.~~

(3)(A) The Post Prison Transfer Board may waive the waiting period for filing a new application for pardon or commutation described in subdivision (d)(1) of this section if the Post Prison Transfer Board determines that the person whose application was denied has established that:

(i) New material evidence relating to the person's guilt or punishment has been discovered;

(ii) The person's physical or mental health has substantially deteriorated; or

(iii) Other meritorious circumstances justify a waiver of the waiting period.

(B)(i) The Board of Corrections shall promulgate rules that will establish policies and procedures for waiver of the waiting period.

(ii) The Board of Corrections may make additions, amendments, changes, or alterations to the rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 2. Arkansas Code § 16-93-207(c), pertaining to the time limitation for filing an application for pardon or commutation, is amended to read as follows:

(c)(1)(A) If Except as provided in subdivision (c)(3) of this section, if an application for pardon, commutation of sentence, or remission of fine or forfeiture is denied in writing by the Governor, the person filing the application shall not be eligible to file a new application for pardon, commutation of sentence, or remission of fine or forfeiture related to the same offense for a period of four (4) years from the date of filing of the application that was denial denied.

(B) Any person who made an application for pardon, commutation of sentence, or remission of fine or forfeiture that was denied

1 on or after July 1, 2004, shall be eligible to file a new application four  
2 (4) years after the date of filing of the application that was denied.

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

8 (3)(A) The Post Prison Transfer Board may waive the waiting  
9 period for filing a new application for pardon, commutation of sentence, or  
10 remission of fine or forfeiture described in subdivision (c)(1)(A) of this  
11 section if the Post Prison Transfer Board determines that the person whose  
12 application was denied has established that:

13 (i) New material evidence relating to the person's  
14 guilt or punishment has been discovered;

15 (ii) The person's physical or mental health has  
16 substantially deteriorated; or

17 (iii) Other meritorious circumstances justify a  
18 waiver of the waiting period.

19 (B)(i) The Board of Corrections shall promulgate rules  
20 that will establish policies and procedures for waiver of the waiting period.

21 (ii) The Board of Corrections may make additions,  
22 amendments, changes, or alterations to the rules in accordance with the  
23 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

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25 /s/ Faris  
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