

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 S2/24/05 H4/7/05

A Bill

SENATE BILL 205

5 By: Senators Faris, Laverty, Hill
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For An Act To Be Entitled

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

17 AN ACT TO CHANGE PROCEDURES CONCERNING
18 APPLICATIONS FOR EXECUTIVE CLEMENCY.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 5-4-607(d), pertaining to the time
25 limitation for filing an application for pardon or commutation, is amended to
26 read as follows:

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

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



1 ~~in determining whether a person is eligible to reapply~~ Any person who made an
 2 application for pardon or commutation that was denied on or after July 1,
 3 2004, shall be eligible to reapply for pardon or commutation four (4) years
 4 after the date of filing of the application that was denied.

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

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

9 (3)(A) The Post Prison Transfer Board may waive the waiting
 10 period for filing a new application for pardon or commutation described in
 11 subdivision (d)(1) of this section if:

12 (i) It has been at least twelve (12) months after
 13 the date of the filing of the application that was denied; and

14 (ii) The Post Prison Transfer Board determines that
 15 the person whose application was denied has established that:

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

18 (b) The person's physical or mental health has
 19 substantially deteriorated; or

20 (c) Other meritorious circumstances justify a waiver
 21 of the waiting period.

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

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

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

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

1 application that was ~~denial~~ denied.

2 (B) Any person who made an application for pardon,
3 commutation of sentence, or remission of fine or forfeiture that was denied
4 on or after July 1, 2004, shall be eligible to file a new application four
5 (4) years after the date of filing of the application that was denied.

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

11 (3)(A) The Post Prison Transfer Board may waive the waiting
12 period for filing a new application for pardon, commutation of sentence, or
13 remission of fine or forfeiture described in subdivision (c)(1)(A) of this
14 section if:

15 (i) It has been at least twelve (12) months after
16 the date of the filing of the application that was denied; and

17 (ii) The Post Prison Transfer Board determines that
18 the person whose application was denied has established that:

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

21 (b) The person's physical or mental health has
22 substantially deteriorated; or

23 (c) Other meritorious circumstances justify a waiver
24 of the waiting period.

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

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

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31 /s/ Faris, et al
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