

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

A Bill

SENATE BILL 386

4
5 By: Senator Luker
6 By: Representative Bond

For An Act To Be Entitled

10 AN ACT TO PROVIDE THAT IMPRISONMENT INCLUDES HOME
11 DETENTION; TO AUTHORIZE THE BOARD OF CORRECTIONS
12 TO PROMULGATE RULES REGARDING INCARCERATION IN A
13 HOME DETENTION PROGRAM; AND FOR OTHER PURPOSES.

Subtitle

16 AN ACT TO PROVIDE THAT IMPRISONMENT
17 INCLUDES HOME DETENTION AND TO AUTHORIZE
18 THE BOARD OF CORRECTIONS TO PROMULGATE
19 RULES REGARDING INCARCERATION IN A HOME
20 DETENTION PROGRAM.

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

25 SECTION 1. Arkansas Code § 5-4-101(4), pertaining to the definition of
26 imprisonment, is amended to read as follows:

27 (4) "Imprisonment":

28 (A) Means incarceration in a detentional facility operated
29 by the state or any of its political subdivisions; ~~or~~

30 (B) May mean incarceration in a privately operated
31 detentional facility under contract to the state or any of its political
32 subdivisions; ~~and~~ or

33 (C) Means home detention as described in § 16-93-708; and

35 SECTION 2. Arkansas Code § 5-4-402 is amended to read as follows:
36 5-4-402. Place of imprisonment.



1 (a) Except as provided in §§ 5-4-203, ~~and 5-4-304,~~ and 16-93-708, a
2 defendant convicted of a felony and sentenced to imprisonment shall be
3 committed to the custody of the Department of Correction for the term of his
4 or her sentence or until released in accordance with law.

5 (b) Except as provided in § 16-93-708, A a defendant convicted of a
6 misdemeanor and sentenced to imprisonment shall be committed to the county
7 jail or other authorized institution designated by the court for the term of
8 his or her sentence or until released in accordance with law.

9 (c) Except as provided in § 16-93-708, A a defendant convicted of a
10 violation of § 5-64-401 shall be committed to the custody of the Department
11 of Correction for the term of his or her sentence or until released in
12 accordance with law.

13 (d)(1)(A) A juvenile sentenced in circuit court who is less than
14 sixteen (16) years of age when sentenced shall be committed to the custody of
15 the Division of Youth Services of the Department of Human Services until his
16 or her sixteenth birthday, at which time he shall be transferred to the
17 Department of Correction except as provided by court order or parole decision
18 made by the Post Prison Transfer Board.

19 (B) All records from the division shall be transferred to
20 the Department of Correction at the time the juvenile is transferred.

21 (2) Juveniles less than sixteen (16) years of age who are
22 awaiting transfer to the Department of Correction shall be segregated from
23 the general delinquency population housed at the division.

24 (e)(1) With the consent and approval of the division, the Department
25 of Correction may transfer from the Department of Correction to the division
26 any inmate under the age of eighteen (18) years who, in the opinion of the
27 Department of Correction and the division, is more suited and adaptable by
28 age, physical size, and temperament to the programs of the Department of
29 Human Services.

30 (2)(A) Inmates transferred to the division shall be segregated
31 from the general delinquency population housed at the division.

32 (B) In the event that a youth violates the rules of the
33 division's program or facility or is otherwise not amenable to the division's
34 rehabilitative efforts, the division may return the inmate to the Department
35 of Correction.

36 (3) All inmates transferred to the division under this

1 subsection shall be returned to the Department of Correction on their
2 eighteenth birthdays.

3
4 SECTION 3. Arkansas Code § 16-93-708 is amended to read as follows:
5 16-93-708. Home detention.

6 (a) "Approved electronic monitoring or supervising device" means any
7 electronic device approved by the ~~board of correction~~ Board of Corrections
8 which meets the minimum Federal Communications Commission regulations and
9 requirements, and which is limited in capability to recording or transmitting
10 information as to the criminal defendant's presence in the home.

11 (b)(1) Subject to the provisions of subdivision (b)(2) of this
12 section, a defendant convicted of a felony or misdemeanor and sentenced to
13 imprisonment may be incarcerated in a home detention program.

14 (2) The Board of Corrections shall promulgate rules that will
15 establish policy and procedures for incarceration in a home detention
16 program.

17 ~~(b)(c)~~ In all instances where the department may release any inmate to
18 community supervision, in addition to all other conditions which may be
19 imposed by the department, the department may require the criminal defendant
20 to participate in a home detention program. The term of the home detention
21 shall not exceed the maximum number of years of imprisonment or supervision
22 to which the inmate could be sentenced, and the length of time the defendant
23 participates in a home detention program and any good-time credit awarded
24 shall be credited against the defendant's sentence.

25 ~~(e)(d)~~ The Board of ~~Correction~~ Corrections shall establish policy and
26 procedures for participation in a home detention program, including but not
27 limited to program criteria, terms, and conditions of release.

28
29
30
31
32
33
34
35
36