

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: S2/22/05

A Bill

SENATE BILL 387

5 By: Senator Luker
6 By: Representatives Bond, D. Johnson
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For An Act To Be Entitled

10 AN ACT TO MAKE CERTAIN OFFENDERS ELIGIBLE FOR THE
11 AWARD OF MERITORIOUS GOOD TIME UNDER THE SEVENTY-
12 PERCENT RULE; AND OTHER PURPOSES.
13

Subtitle

14 AN ACT TO MAKE CERTAIN OFFENDERS
15 ELIGIBLE FOR THE AWARD OF MERITORIOUS
16 GOOD TIME UNDER THE SEVENTY-PERCENT
17 RULE.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 16-93-611 is amended to read as follows:
24 16-93-611. Class Y felonies.

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

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

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

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

31 (D) Rape, § 5-14-103;

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

33 (F) Manufacture of methamphetamine, § 5-64-401(a)(1)(i);

34 or

35 (G) Possession of drug paraphernalia with the intent to
36 manufacture methamphetamine, § 5-64-403(c)(5) shall not, except as provided



1 in subdivision (a)(3) or subsection ~~(b)~~ (c) of this section, be eligible for
2 parole or community punishment transfer until the person serves seventy
3 percent (70%) of the term of imprisonment to which the person is sentenced,
4 including a sentence 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)(A)(i) For persons sentenced on or after the effective date
13 of this subdivision (a)(3), the seventy-percent provision under subdivision
14 (a)(1) of this section shall include credit for the award of meritorious good
15 time under § 12-29-201 to any person who is found guilty of or pleads guilty
16 or nolo contendere to manufacture of methamphetamine under § 5-64-
17 401(a)(1)(i) or possession of drug paraphernalia with the intent to
18 manufacture methamphetamine under § 5-64-403(c)(5).

19 (ii) For persons sentenced to a term of imprisonment
20 of less than a life sentence on or after the effective date of this
21 subdivision (a)(3), the seventy-percent provision under subdivision (a)(1) of
22 this section may include credit for the award of meritorious good time under
23 § 12-29-202 to any person who is found guilty of or pleads guilty or nolo
24 contendere to manufacture of methamphetamine under § 5-64-401(a)(1)(i) or
25 possession of drug paraphernalia with the intent to manufacture
26 methamphetamine under § 5-64-403(c)(5).

27 (B) In no event shall the time served by any person who is
28 found guilty of or pleads guilty or nolo contendere to manufacture of
29 methamphetamine under § 5-64-401(a)(1)(i) or possession of drug paraphernalia
30 with the intent to manufacture methamphetamine under § 5-64-403(c)(5) be
31 reduced to less than fifty percent (50%) of the person's original sentence.

32 (b) A jury may be instructed pursuant to § 16-97-103 regarding the
33 awarding of meritorious good time under subdivision (a)(3) of this section.

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

36 (1) The defendant was a juvenile at the time of the offense;

(2) The juvenile was merely an accomplice to the offense; and

(3) *The offense occurred on or after July 28, 1995.*

(d) In no event shall the awarding of meritorious good time under § 12-29-201 or § 12-29-202 be applicable to persons sentenced under subdivisions (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), or (a)(1)(E) of this section.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that there is serious overcrowding in the Department of Correction facilities; that such overcrowding is likely to worsen unless appropriate action is taken immediately; and that this act is immediately necessary because it is designed to allow a procedure for helping to alleviate the overcrowding problem. 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/ Luker