

1 State of Arkansas
2 85th General Assembly
3 First Extraordinary Session, 2006
4

As Engrossed: H4/4/06
A Bill

Call Item 23

HOUSE BILL 1004

5 By: Representatives D. Creekmore, Abernathy, Adcock, Borhauer, Boyd, Bright, Burris, Childers, Cook,
6 Cooper, Davenport, Dunn, L. Evans, Everett, Fite, George, Glidewell, R. Green, Hardwick, Harrelson, J.
7 Hutchinson, T. Hutchinson, J. Johnson, Kenney, Key, Kidd, Lamoureux, Mack, Maloch, M. Martin,
8 Medley, Nichols, Overbey, Petrus, S. Prater, Pyle, Ragland, Rankin, Roebuck, Rogers, Sample, Saunders,
9 Sullivan, Walters, Wells, Wood, Wyatt, *Norton, Pritchard*
10 By: Senators Broadway, Altes, Faris, Glover, Higginbothom, Holt, T. Smith, J. Taylor, Trusty, Whitaker,
11 Womack
12
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For An Act To Be Entitled

14
15 AN ACT RELATING TO THE SENTENCING OF OFFENDERS
16 FOR CERTAIN SEX OFFENSES INVOLVING CHILDREN LESS
17 THAN *FOURTEEN (14)* YEARS OF AGE; AND FOR OTHER
18 PURPOSES.
19

Subtitle

20
21 AN ACT RELATING TO THE SENTENCING OF
22 OFFENDERS FOR CERTAIN SEX OFFENSES
23 INVOLVING CHILDREN LESS THAN *FOURTEEN*
24 *(14)* YEARS OF AGE.
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26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. Arkansas Code § 5-4-501(c), pertaining to the sentencing of
30 a habitual offender for a serious felony involving violence, is amended to
31 read as follows:

32 (c)(1) A Except as provided in subdivision (c)(3) of this section, a
33 defendant who is convicted of a serious felony involving violence enumerated
34 in subdivision (c)(2) of this section and who has previously been convicted
35 of one (1) or more of the serious felonies involving violence enumerated in
36 subdivision (c)(2) of this section shall be sentenced:



1 (A) To imprisonment for a term of not less than forty (40)
2 years nor more than eighty (80) years, or life; and

3 (B) Without eligibility for parole or community correction
4 transfer except under § 16-93-1302.

5 (2) As used in this subsection, "serious felony involving
6 violence" means:

7 (A) Any of the following felonies:

8 (i) Murder in the first degree, § 5-10-102;

9 (ii) Murder in the second degree, § 5-10-103;

10 (iii) Kidnapping, § 5-11-102, involving an activity
11 making it a Class Y felony;

12 (iv) Aggravated robbery, § 5-12-103;

13 (v) Rape, § 5-14-103;

14 (vi) Sexual assault in the first degree, § 5-14-124;

15 ~~(vi)~~ (vii) Terroristic act, § 5-13-310, involving an
16 activity making it a Class Y felony; or

17 ~~(vii)~~ (viii) Causing a catastrophe, § 5-38-202(a); or

18 (B) A conviction of a comparable serious felony involving
19 violence from another jurisdiction.

20 (3) A defendant who is convicted of rape, § 5-14-103, or sexual
21 assault in the first degree, § 5-14-124, involving a victim less than
22 fourteen (14) years of age and who has previously been convicted of one (1)
23 or more of the serious felonies involving violence enumerated in subdivision
24 (c)(2) of this section shall be sentenced to life in prison without the
25 possibility of parole.

26 ~~(3)~~(4)(A) The following procedure governs a trial at which a
27 sentence to an extended term of imprisonment is sought pursuant to this
28 subsection:

29 (i) The jury shall first hear all evidence relevant
30 to the serious felony involving violence with which the defendant is
31 currently charged and shall retire to reach a verdict of guilt or innocence
32 on this charge;

33 (ii)(a) If the defendant is found guilty of the
34 serious felony involving violence, out of the hearing of the jury the trial
35 court shall hear evidence of whether the defendant has pleaded guilty or nolo
36 contendere to or been found guilty of a prior serious felony involving

1 violence and shall determine the number of prior serious felony involving
2 violence convictions, if any.

3 (b) The defendant has the right to hear and
4 controvert evidence described in subdivision (c)~~(3)~~(4)(A)(ii)(a) of this
5 section and to offer evidence in his or her support;

6 (iii)(a) The trial court shall then instruct the
7 jury as to the number of prior convictions for a serious felony involving
8 violence and the statutory sentencing range.

9 (b) The jury may be advised as to the nature
10 of a prior serious felony involving violence conviction and the date and
11 place of a prior serious felony involving violence conviction; and

12 (iv) The jury shall retire again and then determine
13 a sentence within the statutory range.

14 (B) The determination of whether a felony conviction from
15 another jurisdiction is comparable to an enumerated serious felony involving
16 violence under Arkansas criminal law lies within the discretion of the trial
17 judge at the time of sentencing.

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19 SECTION 2. Arkansas Code § 5-14-103(c), pertaining to the penalty
20 classification for the offense of rape, is amended to read as follows:

21 (c)(1) Rape is a Class Y felony.

22 (2) Any person who pleads guilty or nolo contendere to or is
23 found guilty of rape involving a victim who is less than fourteen (14) years
24 of age shall be sentenced to a minimum term of imprisonment of twenty-five
25 (25) years.

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29 /s/ D. Creekmore, et al.
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