

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 86th General Assembly  
3 Regular Session, 2007

# A Bill

HOUSE BILL 1230

4  
5 By: Representatives Patterson, Adcock, Allen, Breedlove, J. Brown, Cheatham, L. Cowling, Garner,  
6 George, Glidewell, Hall, Kidd, Lovell, Maxwell, Ragland, Rogers, Wells

7  
8  
9

## For An Act To Be Entitled

10 AN ACT TO ESTABLISH A WAITING PERIOD OF SIX (6)  
11 YEARS AFTER THE DATE OF DENIAL OF AN APPLICATION  
12 FOR EXECUTIVE CLEMENCY FOR PERSONS SENTENCED TO  
13 LIFE IMPRISONMENT WITHOUT PAROLE FOR FILING A NEW  
14 APPLICATION FOR EXECUTIVE CLEMENCY; TO ALLOW THE  
15 PAROLE BOARD TO WAIVE THE WAITING PERIOD UNDER  
16 CERTAIN CIRCUMSTANCES; AND FOR OTHER PURPOSES.

17  
18

## Subtitle

19 TO ESTABLISH A WAITING PERIOD OF SIX (6)  
20 YEARS FOR PERSONS SENTENCED TO LIFE  
21 IMPRISONMENT WITHOUT PAROLE FOR FILING A  
22 NEW APPLICATION FOR EXECUTIVE CLEMENCY  
23 AND TO ALLOW THE PAROLE BOARD TO WAIVE  
24 THE WAITING PERIOD.

25  
26

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

28

29 SECTION 1. Arkansas Code § 16-93-207 is amended to read as follows:  
30 16-93-207. Applications for pardon, commutation of sentence, and  
31 remission of fines and forfeitures.

32 (a)(1)(A) At least thirty (30) days before granting an application for  
33 pardon, commutation of sentence, or remission of fine or forfeiture, the  
34 Governor shall file with the Secretary of State a notice of his or her  
35 intention to grant the application.

36

(B)(i) The Governor shall also direct the Department of



1 Correction to send notice of his or her intention to the judge, the  
 2 prosecuting attorney, and the sheriff of the county in which the applicant  
 3 was convicted and, if applicable, to the victim or the victim's next of kin.

4 (ii) The notification to the victim or the victim's  
 5 next of kin shall not be required if the conviction occurred more than ten  
 6 (10) years prior to the filing of the notice under subdivision (a)(1)(A) of  
 7 this section.

8 (2) The filing of the notice shall not preclude the Governor  
 9 from later denying the application, but any pardon, commutation of sentence,  
 10 or remission of fine or forfeiture granted without filing the notice shall be  
 11 null and void.

12 (b) If the Governor does not grant an application for pardon,  
 13 commutation of sentence, or remission of fine or forfeiture within two  
 14 hundred forty (240) days of the Governor's receipt of the recommendation of  
 15 the Parole Board regarding the application, the application shall be deemed  
 16 denied by the Governor, and any pardon, commutation of sentence, or remission  
 17 of fine or forfeiture granted after the two-hundred-forty-day period shall be  
 18 null and void.

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

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

30 (2) If an application for pardon, commutation of sentence, or  
 31 remission of fine or forfeiture is denied by the Governor pursuant to  
 32 subsection (b) of this section, the person filing the application may  
 33 immediately file a new application for pardon, commutation of sentence, or  
 34 remission of fine or forfeiture related to the same offense.

35 (3)(A) The Parole Board may waive the waiting period for filing  
 36 a new application for pardon, commutation of sentence, or remission of fine

1 or forfeiture described in subdivision (c)(1)(A) of this section if:

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

4 (ii) The Parole Board determines that the person  
5 whose application was denied has established that:

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

8 (b) The person's physical or mental health has  
9 substantially deteriorated; or

10 (c) Other meritorious circumstances justify a  
11 waiver of the waiting period.

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

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

17 (d)(1) Except as provided in subdivision (d)(3) of this section, if an  
18 application for pardon, commutation of sentence, or remission of fine or  
19 forfeiture of a person sentenced to life imprisonment without parole is  
20 denied in writing by the Governor, the person filing the application shall  
21 not be eligible to file a new application for pardon, commutation of  
22 sentence, or remission of fine or forfeiture related to the same offense for  
23 a period of six (6) years from the date of the denial.

24 (2) If an application for pardon, commutation of sentence, or  
25 remission of fine or forfeiture of a person sentenced to life imprisonment  
26 without parole is denied by the Governor pursuant to subsection (b) of this  
27 section, the person filing the application may immediately file a new  
28 application for pardon, commutation of sentence, or remission of fine or  
29 forfeiture related to the same offense.

30 (3)(A) The Parole Board may waive the waiting period for filing  
31 a new application for pardon, commutation of sentence, or remission of fine  
32 or forfeiture described in subdivision (d)(1) of this section if:

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

35 (ii) The Parole Board determines that the person  
36 whose application was denied has established that:

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

3 (b) The person's physical or mental health has  
4 substantially deteriorated; or

5 (c) Other meritorious circumstances justify a  
6 waiver of the waiting period.

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

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

12 ~~(d)~~(e) If an application for pardon, commutation of sentence, or  
13 remission of fine is granted, the Governor shall:

14 (1) Include in his or her written order the reasons for granting  
15 the application; and

16 (2) File with the Senate and the House of Representatives a copy  
17 of the order that includes:

18 (A) The applicant's name;

19 (B) The offense of which the applicant was convicted;

20 (C) The sentence imposed upon the applicant;

21 (D) The date that the sentence was imposed; and

22 (E) The effective date of the pardon, commutation of  
23 sentence, or remission of fine.

24 ~~(e)~~(f)(1) This section shall not apply to reprieves.

25 (2) Reprieves may be granted as presently provided by law.

26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36