

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  
4

# A Bill

HOUSE BILL 2258

5 By: Representative E. Brown  
6  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE § 5-2-316  
10 CONCERNING THE CONDITIONAL RELEASE OF PERSONS  
11 ACQUITTED OF A CRIME BY REASON OF MENTAL DISEASE  
12 OR DEFECT; AND FOR OTHER PURPOSES.  
13

## Subtitle

14 TO AMEND ARKANSAS CODE § 5-2-316  
15 CONCERNING THE CONDITIONAL RELEASE OF  
16 PERSONS ACQUITTED OF A CRIME BY REASON  
17 OF MENTAL DISEASE OR DEFECT.  
18  
19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code § 5-2-316 is amended to read as follows:

24 5-2-316. Conditional release - Subsequent discharge, modification, or  
25 revocation.

26 (a)(1) Any person conditionally released pursuant to § 5-2-314 or § 5-  
27 2-315 may apply to the court ordering the conditional release for discharge  
28 from or modification of the order granting conditional release on the ground  
29 that he or she may be discharged or the order modified without danger to  
30 himself or herself or to the person or property of another.

31 (2) The application shall be accompanied by a supporting  
32 affidavit of a qualified physician.

33 (3) A copy of the application and affidavit shall be transmitted  
34 to the prosecuting attorney of the judicial circuit from which the person was  
35 conditionally released and to any person supervising his or her release, and  
36 the hearing on the application shall be held following notice to the



1 prosecuting attorney and the person supervising his or her release.

2 (b)(1) Within five (5) years after the most recent order of  
 3 conditional release is issued pursuant to § 5-2-314 or § 5-2-315 ~~granting~~  
 4 ~~conditional release~~, and after notice to the conditionally released person  
 5 and a hearing, ~~if the court determines~~ may determine that the conditionally  
 6 released person has violated a condition of release or that for the safety of  
 7 the conditionally released person or for the safety of the person or property  
 8 of another ~~his or her~~ the conditional release should be modified or revoked,  
 9 ~~the court may:~~

10 (1) ~~Modify a condition of release; or~~

11 (2) ~~Order the the conditionally released person to be committed~~  
 12 ~~to the custody of the Director of the Arkansas State Hospital or another~~  
 13 ~~appropriate facility subject to discharge or release only in accordance with~~  
 14 ~~the procedure prescribed in § 5-2-315.~~

15 (2)(A) If an order is entered modifying or revoking the most  
 16 recent order of conditional release under subdivision (b)(1) of this section,  
 17 all conditions of the release shall be abated, including the five-year  
 18 conditional release time frame in subdivision (b)(1) of this section, and the  
 19 conditionally released person shall be ordered to be committed to the custody  
 20 of the Director of the Department of Health and Human Services or the  
 21 director's designee.

22 (B) After the commitment described in subdivision  
 23 (b)(2)(A) of this section, the person is subject to future discharge or  
 24 release only in accordance with the procedure prescribed in § 5-2-315.

25  
 26 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
 27 General Assembly of the State of Arkansas that the present procedure for  
 28 revocation of conditional release orders is inadequate to protect the public;  
 29 that this act is necessary to clarify and refute the Original Commentary  
 30 regarding § 5-2-316(b); and that this act is necessary to assure continued  
 31 treatment for those persons who cannot or will not maintain appropriate  
 32 treatment and who have previously shown the capacity to commit felonies.  
 33 Therefore, an emergency is declared to exist and this act being immediately  
 34 necessary for the preservation of the public peace, health, and safety shall  
 35 become effective on:

36 (1) The date of its approval by the Governor;

1                   (2) If the bill is neither approved nor vetoed by the Governor,  
2 the expiration of the period of time during which the Governor may veto the  
3 bill; or

4                   (3) If the bill is vetoed by the Governor and the veto is  
5 overridden, the date the last house overrides the veto.

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36