

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 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/4/09
A Bill

HOUSE BILL 1752

5 By: Representative Pierce
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW REGARDING REPRIEVES AND
10 NEW TRIALS FOR CONDEMNED FELONS; AND FOR OTHER
11 PURPOSES.
12

Subtitle

14 TO AMEND THE LAW REGARDING REPRIEVES AND
15 NEW TRIALS FOR CONDEMNED FELONS.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 16-90-506 is amended to read as follows:
21 16-90-506. Reprieve, new trial, etc.

22 (a)(1) Should the condemned felon, while in the custody of the
23 Director of the Department of Correction, be granted a reprieve by the
24 Governor or obtain a writ of error from the Supreme Court or should the
25 execution of the sentence be stayed by any competent judicial proceeding,
26 notice of the reprieve or writ of error or stay of execution shall be served
27 upon the Director of the Department of Correction, as well as upon the
28 condemned felon, and he or she shall yield obedience to it.

29 (2) In any subsequent proceeding, the mandate of the court
30 having regard to the condemned felon shall be served upon the Director of the
31 Department of Correction as well as upon the felon.

32 (3) If the felon is resentenced by the court, the proceedings
33 shall be as provided under the original sentence.

34 (b) If a new trial is granted to the condemned felon after he or she
35 has been conveyed to the Department of Correction, he or she shall be
36 conveyed back to the place of trial as the Director of the Department of



1 Correction may direct.

2 (c) The only officers who shall have the power of suspending the
3 execution of a judgment of death are:

4 (1) The Governor;

5 (2) *In cases of ~~insanity or~~ pregnancy of the individual, the*
6 *Director of the Department of Correction as ~~provided in subsection (d) of~~*
7 *~~this section~~ upon notice to the Governor; and*

8 (3) In cases of appeals, the Clerk of the Supreme Court, as
9 prescribed by law.

10 ~~(d)(1)(A) When the Director of the Department of Correction is~~
11 ~~satisfied that there are reasonable grounds for believing that an individual~~
12 ~~under sentence of death is not competent, due to mental illness, to~~
13 ~~understand the nature and reasons for that punishment, the Director of the~~
14 ~~Department of Correction shall notify the Deputy Director of the Division of~~
15 ~~Behavioral Health of the Department of Health and Human Services. The~~
16 ~~Director of the Department of Correction shall also notify the Governor of~~
17 ~~this action. The Division of Behavioral Health of the Department of Health~~
18 ~~and Human Services shall cause an inquiry to be made into the mental~~
19 ~~condition of the individual within thirty (30) days of receipt of~~
20 ~~notification. The attorney of record of the individual shall also be notified~~
21 ~~of this action, and reasonable allowance will be made for an independent~~
22 ~~mental health evaluation to be made. A copy of the report of the evaluation~~
23 ~~by the Division of Behavioral Health of the Department of Health and Human~~
24 ~~Services shall be furnished to the Department of Correction Mental Health~~
25 ~~Services, along with any recommendations for treatment of the individual. All~~
26 ~~responsibility for implementation of treatment remains with the Department of~~
27 ~~Correction Mental Health Services.~~

28 ~~(B)(i) If the individual is found competent to understand~~
29 ~~the nature of and reason for the punishment, the Governor shall be so~~
30 ~~notified and shall order the execution to be carried out according to law.~~

31 ~~(ii) If the individual is found incompetent due to~~
32 ~~mental illness, the Governor shall order that appropriate mental health~~
33 ~~treatment be provided. The Director of the Department of Correction may order~~
34 ~~a reevaluation of the competency of the individual as circumstances may~~
35 ~~warrant.~~

36 ~~(2)(d) When the Director of the Department of Correction is satisfied~~

1 that there are reasonable grounds for believing that a female convict under
2 sentence of death is *pregnant, upon notice to the Governor* he or she shall
3 suspend the execution until it appears that she is not pregnant or until she
4 has delivered the child.

5
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

/s/ Pierce