

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H3/27/15
A Bill

HOUSE BILL 1371

5 By: Representative Wright
6 By: Senator Caldwell
7

For An Act To Be Entitled

9 AN ACT CONCERNING PAROLE REVOCATION HEARINGS,
10 LOCATION OF PAROLE REVOCATION HEARINGS, AND CUSTODY
11 OF A PAROLEE DURING A PAROLE REVOCATION PROCEEDING;
12 AND FOR OTHER PURPOSES.
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Subtitle

16 CONCERNING PAROLE REVOCATION HEARINGS,
17 LOCATION OF PAROLE REVOCATION HEARINGS,
18 AND CUSTODY OF A PAROLEE DURING A PAROLE
19 REVOCATION PROCEEDING.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 16-93-705 is amended to read as follows:
25 16-93-705. Revocation – Procedures and hearings generally.

26 (a)(1)(A)(i) At any time during a parolee’s release on parole, the
27 Parole Board may issue a warrant for the arrest of the parolee for violation
28 of any conditions of parole or may issue a notice to appear to answer a
29 charge of a violation.

30 (ii) The Department of Community Correction shall
31 provide the information necessary for the ~~Parole Board~~ board to issue a
32 warrant under subdivision (a)(1)(A)(i) of this section.

33 (B)(i) The ~~Parole Board~~ board shall issue a warrant for
34 the arrest of a parolee if the board determines that the parolee has been
35 charged with a felony involving violence, as defined under § 5-4-501(d)(2),
36 or a felony requiring registration under the Sex Offender Registration Act of



1 1997, § 12-12-901 et seq.

2 (ii) The Department of Community Correction shall
3 provide the information necessary for the ~~Parole Board~~ board to issue a
4 warrant under subdivision (a)(1)(B)(i) of this section.

5 (iii) A parolee arrested on a warrant issued under
6 subdivision (a)(1)(B)(i) of this section shall be detained pending a
7 mandatory parole revocation hearing.

8 (2) The warrant or notice shall be served personally upon the
9 ~~individual~~ parolee.

10 (3) The warrant shall authorize all officers named in the
11 warrant to place the parolee in custody at any suitable detention facility
12 pending a hearing.

13 (4) Any parole officer may arrest a parolee without a warrant or
14 may deputize any officer with power of arrest to ~~do so~~ arrest the parolee
15 without a warrant by giving him or her a written statement setting forth that
16 the parolee, in the judgment of the parole officer, violated conditions of
17 his or her parole.

18 (5) The written statement delivered with the parolee by the
19 arresting officer to the official in charge of the detention facility to
20 which the parolee is brought shall be sufficient warrant for detaining him or
21 her pending disposition.

22 (6) If the board or its designee finds, by a preponderance of
23 the evidence, that the parolee has inexcusably failed to comply with a
24 condition of his or her parole, the parole may be revoked at any time prior
25 to the expiration of the period of parole.

26 (7) A parolee for whose return a warrant has been issued by the
27 board shall be deemed a fugitive from justice if it is found that the warrant
28 cannot be served.

29 (8) The board shall determine whether the time from the issuance
30 of the warrant to the date of arrest, or any part of it, shall be counted as
31 time served under the sentence.

32 (b)(1) A parolee arrested for violation of parole shall be entitled to
33 a preliminary hearing to determine whether there is reasonable cause to
34 believe that he or she has violated a condition of parole.

35 (2) The preliminary hearing shall be scheduled within seven (7)
36 days after arrest and conducted within fourteen (14) days after arrest.

1 excluding a weekend, holiday, or delay caused by an act of nature, after
2 arrest by the parole revocation judge for the board ~~as soon as practical~~
3 ~~after arrest~~ and reasonably near the place of the alleged violation or
4 arrest.

5 (3) The parolee shall be given prior notice of the date, time,
6 and location of the preliminary hearing, the purpose of the hearing, and the
7 conditions of parole he or she is alleged to have violated.

8 (4) Except as provided in subsection (d) of this section, the
9 parolee shall have the right to hear and controvert evidence against him or
10 her, to offer evidence in his or her own behalf, and to be represented by
11 counsel.

12 (5) If the parole revocation judge finds that there is
13 reasonable cause to believe that the parolee has violated a condition of
14 *parole, the parole revocation judge may order the parolee returned to the*
15 ~~*custody*~~ *nearest facility* of the Department of Correction or Department of
16 Community Correction where the parolee shall be placed in custody for a
17 parole revocation hearing before the board.

18 (6) If the parole revocation judge finds that there is
19 reasonable cause to believe that the parolee has violated a condition of
20 parole, the parole revocation judge may return the ~~offender~~ parolee to parole
21 supervision rather than to the custody of the Department of Correction and
22 may impose additional supervision conditions in response to the violating
23 conduct.

24 (7) If the parole revocation judge does not find reasonable
25 cause, he or she shall order the parolee released from custody, but that
26 action shall not bar the board from holding a parole revocation hearing on
27 the alleged violation of parole or from ordering the parolee to appear before
28 ~~it~~ the board.

29 (8) The parole revocation judge shall prepare and furnish to the
30 board and the parolee a summary of the parole revocation hearing, including
31 the substance of the evidence and testimony considered along with the ruling
32 or determination within twenty-one (21) days from the date of the preliminary
33 hearing, excluding a weekend, holiday, or delay caused by an act of nature.

34 (c)(1)(A) Unless a parole revocation hearing is knowingly and
35 intelligently waived by the parolee, a parole shall not be revoked except
36 after a parole revocation hearing, which shall be conducted by the board or

1 its designee within a reasonable period of time after the parolee's arrest.

2 (B) If a waiver is granted under subdivision (c)(1)(A) of
3 this section, the parolee may subsequently appeal the waiver to the board.

4 (2) The parolee shall be given prior notice of the date, time,
5 and location of the parole revocation hearing, the purpose of the parole
6 revocation hearing, and the conditions of parole he or she is alleged to have
7 violated.

8 (3) Except as provided in subsection (d) of this section, the
9 parolee shall have the right to hear and controvert evidence against him or
10 her, to offer evidence in his or her own defense, and to be represented by
11 counsel.

12 (4) If parole is revoked, the board or its designee shall prepare
13 and furnish to the parolee a written statement of evidence relied on and the
14 reasons for revoking parole.

15 (d) At a preliminary hearing under subsection (b) of this section or a
16 parole revocation hearing under subsection (c) of this section:

17 (1) The parolee shall have the right to confront and cross-
18 examine adverse witnesses unless the parole revocation judge or the board or
19 its designee specifically finds good cause for not allowing confrontation;
20 and

21 (2) The parolee may introduce any relevant evidence of the
22 alleged violation, including letters, affidavits, and other documentary
23 evidence, regardless of its admissibility under the rules governing the
24 admission of evidence.

25 (e) A preliminary hearing under subsection (b) of this section shall
26 not be required if:

27 (1) The parolee waives a preliminary hearing; or

28 (2) Unless a parole revocation hearing is knowingly and
29 intelligently waived by the parolee under subsection (c) of this section, the
30 parole revocation hearing under subsection (c) of this section is held
31 promptly within ten (10) calendar days after the arrest and at a facility of
32 the Department of Correction or Department of Community Correction reasonably
33 near the place where the alleged violation occurred or where the parolee was
34 arrested.

35 (f) A preliminary hearing under subsection (b) of this section and a
36 revocation hearing under subsection (c) of this section shall not be

1 necessary if the parole revocation is based on the parolee's conviction,
2 guilty plea, or plea of nolo contendere to a felony offense for which he or
3 she is sentenced to the Department of Correction or to any other state or
4 federal ~~penal~~ correctional institution.

5 (g) The county sheriff or keeper of the jail may permit to allow the
6 parolee to be held in the county jail while awaiting the parole revocation
7 hearing under this section and ruling of the board or its designee.

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/s/Wright