

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

As Engrossed: H3/20/15

A Bill

HOUSE BILL 1666

5 By: Representative Vines
6 By: Senator J. Hutchinson
7

For An Act To Be Entitled

9 AN ACT CONCERNING THE APPLICATION TO TERMINATE A
10 PERSON'S PAROLE OR PROBATION; AND FOR OTHER PURPOSES.

Subtitle

14 CONCERNING THE APPLICATION TO TERMINATE A
15 PERSON'S PAROLE OR PROBATION.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 *SECTION 1. Arkansas Code § 16-90-1304 is amended to read as follows:*
21 *16-90-1304. Application.*

22 *(a) When a person has accumulated enough days, through a combination*
23 *of served and earned time equal to the total number of days of the sentence*
24 *imposed by the sentencing court, he or she shall ~~have attained completion of~~*
25 *be eligible for consideration of discharge of his or her sentence under this*
26 *subchapter.*

27 *(b)(1) No less than forty-five (45) days before the discharge date,*
28 *the Department of Community Correction shall submit notice to:*

- 29 *(A) The prosecuting attorney; and*
- 30 *(B) The Parole Board.*

31 *(2) Within thirty (30) days ~~before the discharge date of receipt~~*
32 *of the earned discharge notice, the prosecuting attorney or the Parole Board*
33 *may ~~file a petition in the sentencing court stating~~ submit to the department*
34 *in writing any reasonable objection to early discharge under this subchapter*
35 *warranting the forfeiture of earned-discharge credit.*

36 *(3) If ~~a petition stating~~ an objection under subdivision (b)(2)*



1 of this section is lodged, the department shall immediately suspend the
2 discharge of the sentence ~~pending a review of the evidence contained in the~~
3 ~~objection by the sentencing court.~~

4 (4) The parolee or probationer may file a petition for review in
5 the sentencing court.

6 ~~(4)(5)~~ A review shall be conducted in the sentencing court
7 within fourteen (14) days of the filing of the petition.

8 ~~(5)(A)(6)(A)~~ Upon the request of the prosecuting attorney or the
9 ~~Parole Board, the~~ The sentencing court shall consider the objections against
10 the person based solely on the information contained in the petition.

11 (B) The sentencing court shall determine, based on a
12 preponderance of the evidence, whether the person should not be discharged
13 from the sentence because, if the information contained in the petition had
14 been known to the Department of Community Correction, the department would
15 have ordered the forfeiture of any of the discharge credit earned to that
16 point or if insufficient evidence exists that would warrant the forfeiture of
17 discharge credit.

18 (C) If the sentencing court finds sufficient evidence
19 warranting a forfeiture of discharge credits, the department shall make the
20 necessary forfeiture of earned discharge credit appropriate for the type of
21 misconduct asserted in the objection.

22 (D)(i) If the sentencing court does not find sufficient
23 evidence exists that warrants forfeiture of discharge credits, the department
24 shall discharge the person immediately if the date upon which the completion
25 of the sentence occurred has passed.

26 (ii) If the date for completion of the sentence has
27 not occurred, the person shall return to the status held at the point the
28 objection was filed.

29 (c) If the prosecuting attorney or the board does not file an
30 objection, upon the filing of a petition in the sentencing court by the
31 parolee or probationer stating that no objections have been filed, the court
32 may discharge the person immediately if the date upon which the completion of
33 the sentence has passed.

34 ~~(6)(d)~~ An appeal may not be taken by either party from the sentencing
35 court's findings or the department's decision for early discharge.

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