

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

A Bill

SENATE BILL 46

5 By: Senator J. Hutchinson
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For An Act To Be Entitled

8 AN ACT TO PROVIDE FOR THE LIFETIME SUPERVISION FOR
9 CERTAIN PERSONS CONVICTED OF A SEX OFFENSE AFTER A
10 FINDING BY THE SENTENCING COURT; AND FOR OTHER
11 PURPOSES.
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Subtitle

14 TO PROVIDE FOR THE LIFETIME SUPERVISION
15 FOR CERTAIN PERSONS CONVICTED OF A SEX
16 OFFENSE AFTER A FINDING BY THE SENTENCING
17 COURT.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code Title 5, Chapter 4, Subchapter 7, is amended
24 to add a new section to read as follows:

25 5-4-703. Lifetime supervision for certain sex offenders.

26 (a) The prosecuting attorney may allege in the charging information
27 that a defendant is charged with an offense for which he or she will be
28 required to register as a sex offender under the Sex Offender Registration
29 Act of 1997, § 12-12-901 et seq., that the defendant poses a serious risk to
30 the public, and that the defendant should be subject to lifetime supervision
31 and monitoring, regardless of whether the defendant has satisfied any term of
32 probation, incarceration, or parole.

33 (b) The finder of fact shall determine whether there is evidence
34 beyond a reasonable doubt that the defendant poses a serious risk to the
35 public and therefore is subject to lifetime supervision and monitoring under
36 this section after the defendant is:



1 (1) Sentenced by the jury or by the court; or

2 (2) Acquitted by reason of mental disease or defect and
3 transferred to the custody of the Arkansas State Hospital.

4 (c) If lifetime supervision and monitoring is ordered under this
5 section, the lifetime supervision and monitoring shall be conducted by the
6 Department of Community Correction and shall begin:

7 (1) Upon discharge of the defendant from supervised probation or
8 parole;

9 (2) Upon discharge of the defendant from the Department of
10 Correction for any reason other than the defendant's being placed on parole;
11 or

12 (3) Upon release from the custody of the Arkansas State Hospital
13 if the defendant was in the custody of the Arkansas State Hospital because he
14 or she was acquitted of a criminal offense by reason of mental disease or
15 defect.

16 (d)(1) A person may be subject to only one (1) period of lifetime
17 supervision and monitoring under this section.

18 (2)(A) If a person who is subject to lifetime supervision and
19 monitoring is subsequently sentenced to probation or incarceration for any
20 offense or is placed on parole after a period of incarceration, the lifetime
21 supervision and monitoring requirements under this section and § 12-12-928
22 shall be held in abeyance during any period in which the person is
23 incarcerated or is being actively supervised on probation or parole for the
24 subsequent offense.

25 (B) However, the lifetime supervision and monitoring
26 requirements shall resume as soon as any period of incarceration or
27 supervised probation or parole ends.

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29 SECTION 2. Arkansas Code Title 5, Chapter 14, Subchapter 1, is amended
30 to add a new section to read as follows:

31 5-14-135. Failure to comply with lifetime registration and monitoring
32 requirements for certain sex offenders.

33 (a) A defendant commits the offense of failure to comply with lifetime
34 registration and monitoring requirements for certain sex offenders if he or
35 she:

36 (1) Is subject to lifetime supervision and monitoring under § 5-

1 4-703; and

2 (2) Knowingly violates a rule, term, or condition of his or her
3 lifetime supervision and monitoring.

4 (b) Failure to comply with lifetime registration and monitoring
5 requirements for certain sex offenders is a Class C felony.

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7 SECTION 3. Arkansas Code Title 12, Chapter 12, Subchapter 9, is
8 amended to add a new section to read as follows:

9 12-12-928. Lifetime supervision and monitoring – Rulemaking –
10 Termination.

11 (a)(1) If a sex offender is subject to lifetime supervision and
12 monitoring under § 5-4-703, he or she shall abide by the terms and conditions
13 of supervision and monitoring as established on a case-by-case basis by the
14 Department of Community Correction.

15 (2) The department may promulgate rules governing the
16 permissible terms and conditions of lifetime supervision and monitoring and a
17 violation of the rules may be subject to both administrative sanctions and
18 criminal offenses, if applicable.

19 (b)(1) A sex offender placed on lifetime supervision and monitoring
20 under § 5-4-703 may file a petition requesting that lifetime supervision and
21 monitoring be terminated after he or she has been on lifetime supervision and
22 monitoring for at least five (5) years.

23 (2)(A) A sex offender shall file a petition requesting
24 termination of lifetime supervision with the circuit court that ordered the
25 lifetime supervision and monitoring.

26 (B) Except as otherwise provided for by law, the
27 procedures for a petition under this subsection shall be the same as are
28 required under § 16-90-1413.

29 (C) The circuit court shall not grant a petition under
30 this subsection unless the petitioner can show by clear and convincing
31 evidence that:

32 (i) He or she no longer poses a serious risk to the
33 public; and

34 (ii) Terminating the lifetime supervision and
35 monitoring would serve the interests of justice.

36 (3) An appeal of the grant or denial of a petition filed under

1 this subsection may be taken by either party as provided by Supreme Court
2 rule and the appellate court shall review the case using an abuse of
3 discretion standard.

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