

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

# A Bill

SENATE BILL 820

5 By: Senator U. Lindsey  
6 By: Representative D. Whitaker  
7

## For An Act To Be Entitled

9 AN ACT PROVIDING FOR HOME CONFINEMENT AND ELECTRONIC  
10 MONITORING AS OPPOSED TO IMPRISONMENT FOR FIRST-TIME,  
11 NONVIOLENT OFFENDERS CONVICTED OF A FELONY AND  
12 SENTENCED TO THE DEPARTMENT OF CORRECTION; AND FOR  
13 OTHER PURPOSES.  
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## Subtitle

16 PROVIDING FOR HOME CONFINEMENT AND  
17 ELECTRONIC MONITORING AS OPPOSED TO  
18 IMPRISONMENT FOR FIRST-TIME, NONVIOLENT  
19 OFFENDERS CONVICTED OF A FELONY AND  
20 SENTENCED TO THE DEPARTMENT OF  
21 CORRECTION.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code § 5-4-402(a)-(c), concerning the place of  
28 imprisonment for a person convicted of a felony or misdemeanor, is amended to  
29 read as follows:

30 (a) Except as provided in §§ 5-4-304, 5-4-405, and 16-93-708, a  
31 defendant convicted of a felony and sentenced to imprisonment shall be  
32 committed to the custody of the Department of Correction for the term of his  
33 or her sentence or until released in accordance with law.

34 (b) Except as provided in § 16-93-708, a defendant convicted of a  
35 misdemeanor and sentenced to imprisonment shall be committed to the county  
36 jail or other authorized institution designated by the court for the term of



1 his or her sentence or until released in accordance with law.

2 (c) Except as provided in § 5-4-304, § 5-4-405, or § 16-93-708, a  
 3 defendant convicted of a felony violation of §§ 5-64-419 – 5-64-442 and  
 4 sentenced to imprisonment shall be committed to the custody of the Department  
 5 of Correction for the term of his or her sentence or until released in  
 6 accordance with law.

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 8 SECTION 2. Arkansas Code Title 5, Chapter 4, Subchapter 4, is amended  
 9 to add a new section to read as follows:

10 5-4-405. Home confinement and electronic monitoring.

11 (a) As used in this section:

12 (1) "Electronic monitoring" means the use of electronic, global  
 13 positioning, or other technology designed to be used for the monitoring and  
 14 tracking of a person and his or her location; and

15 (2) "Home confinement" means that a person serving a sentence  
 16 for a criminal conviction is allowed to serve his or her sentence within the  
 17 confines of his or her residence under strict rules and procedures, as well  
 18 as prohibitions against certain movements beyond the confines of his or her  
 19 residence.

20 (b) A person sentenced to the Department of Correction shall be  
 21 immediately eligible for home confinement and electronic monitoring if:

22 (1) The person does not have a prior felony offense other than  
 23 the felony offense for which he or she is currently sentenced; and

24 (2) The felony offense is not:

25 (A) A felony involving violence as defined under § 5-4-  
 26 501(d)(2)(A); or

27 (B) A felony offense requiring registration under the Sex  
 28 Offender Registration Act of 1997, § 12-12-901 et seq.

29 (c) The circuit court may choose to sentence a person otherwise  
 30 eligible for home confinement and electronic monitoring to imprisonment in  
 31 the department if it makes specific, written findings of fact that set out  
 32 the following, if applicable:

33 (1) The presence of an undue risk that the defendant will commit  
 34 another offense;

35 (2) The defendant is in need of correctional treatment that can  
 36 be provided most effectively by his or her commitment to an institution;

1           (3) Home confinement and electronic monitoring will discount the  
2 seriousness of the defendant’s offense;

3           (4) The defendant’s conduct caused or threatened serious harm;

4           (5) The defendant did not act under strong provocation;

5           (6) There was no substantial ground or course tending to excuse  
6 or justify the defendant’s conduct;

7           (7) The victim of the offense did not initiate or facilitate the  
8 offense committed;

9           (8) The defendant has not compensated or has knowingly refused  
10 to compensate the victim of the offense for the damage or injury that the  
11 victim sustained;

12           (9) The defendant has a history of prior delinquency or criminal  
13 activity for a substantial period of time before the commission of the  
14 present offense;

15           (10) The defendant’s conduct was the result of circumstances  
16 likely to reoccur;

17           (11) The character and attitude of the defendant indicate that  
18 he or she is likely to commit another offense;

19           (12) The defendant is not likely to respond affirmatively to  
20 home confinement and electronic monitoring;

21           (13) The defendant is not advanced in age and does not suffer  
22 from any significant health or mental impairment;

23           (14) The defendant did not cooperate with law enforcement  
24 authorities in his or her own prosecution or in bringing another offender to  
25 justice; and

26           (15) The defendant lacks remorse for his or her offense.

27           (d) A person serving a sentence of home confinement and electronic  
28 monitoring under this section shall accrue all credits toward and be subject  
29 to all rules regarding parole as if he or she were incarcerated in a unit of  
30 the department.

31           (e) A device used for electronic monitoring under this section shall  
32 be approved by the Board of Corrections and meet the minimum regulations and  
33 requirements of the Federal Communications Commission for use in tracking a  
34 person and his or her location.

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36           SECTION 3. Arkansas Code Title 12, Chapter 27, is amended to add a new

1 section to read as follows:

2 12-27-144. Home confinement and electronic monitoring – Procedures.

3 The Board of Corrections shall establish policy and procedures for a  
4 person serving a sentence of home confinement and electronic monitoring under  
5 § 5-4-405, including without limitation reporting requirements, terms, and  
6 conditions of serving a sentence of home confinement and electronic  
7 monitoring.

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