

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

# A Bill

HOUSE BILL 1668

5 By: Representative Lemons  
6 By: Senator T. Garner  
7

## For An Act To Be Entitled

9 AN ACT CONCERNING THE OFFENSE OF DRIVING OR BOATING  
10 WHILE INTOXICATED; CONCERNING THE DISPOSITION OF A  
11 DEFENDANT CONVICTED OF DRIVING OR BOATING WHILE  
12 INTOXICATED; AND FOR OTHER PURPOSES.  
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## Subtitle

15 CONCERNING THE OFFENSE OF DRIVING OR  
16 BOATING WHILE INTOXICATED; AND CONCERNING  
17 THE DISPOSITION OF A DEFENDANT CONVICTED  
18 OF DRIVING OR BOATING WHILE INTOXICATED.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code § 5-65-111(d) through (f), concerning the  
25 sentencing range for a felony offense of driving or boating while  
26 intoxicated, is amended to read as follows:

27 (d)~~(1)~~ A person who pleads guilty or nolo contendere to or is found  
28 guilty of violating § 5-65-103 for a fourth offense occurring within five (5)  
29 years of the first offense is upon conviction guilty of an unclassified  
30 felony and may be imprisoned for not less than:

31 ~~(A)~~(1) One (1) year but no more than six (6) years; or  
32 ~~(B)~~(2) Two (2) years but no more than six (6) years if a  
33 passenger under sixteen (16) years of age was in the motor vehicle or  
34 motorboat at the time of the offense.

35 ~~(2) The court may order public service instead of imprisonment~~  
36 ~~in the following manner, and if the court orders public service, the court~~



1 shall include the reasons for the order of public service instead of  
 2 imprisonment in its written order or judgment;

3 ~~(A) Not less than one (1) year but no more than six (6)~~  
 4 ~~years; or~~

5 ~~(B) Not less than two (2) years but no more than six (6)~~  
 6 ~~years if a passenger under sixteen (16) years of age was in the motor vehicle~~  
 7 ~~or motorboat at the time of the offense.~~

8 (e)~~(1)~~ A person who pleads guilty or nolo contendere to or is found  
 9 guilty of violating § 5-65-103 for a fifth or subsequent offense occurring  
 10 within five (5) years of the first offense is upon conviction guilty of an  
 11 unclassified felony and may be imprisoned for no fewer than:

12 ~~(A)(1)~~ Two (2) years but no more than ten (10) years; or

13 ~~(B)(2)~~ Three (3) years but no more than ten (10) years if a  
 14 passenger under sixteen (16) years of age was in the motor vehicle or  
 15 motorboat at the time of the offense.

16 ~~(2) The court may order public service instead of imprisonment~~  
 17 ~~in the following manner, and if the court orders public service, the court~~  
 18 ~~shall include the reasons for the order of public service instead of~~  
 19 ~~imprisonment in its written order or judgment;~~

20 ~~(A) Not less than two (2) years but no more than ten (10)~~  
 21 ~~years; or~~

22 ~~(B) Not less than three (3) years but no more than ten~~  
 23 ~~(10) years if a passenger under sixteen (16) years of age was in the motor~~  
 24 ~~vehicle or motorboat at the time of the offense.~~

25 (f)~~(1)~~ A person who pleads guilty or nolo contendere to or is found  
 26 guilty of violating § 5-65-103 for a sixth or subsequent offense occurring  
 27 within ten (10) years of the first offense is upon conviction guilty of a  
 28 Class B felony.

29 ~~(2) The court may order public service instead of imprisonment~~  
 30 ~~in the following manner, and if the court orders public service, the court~~  
 31 ~~shall include the reasons for the order of public service instead of~~  
 32 ~~imprisonment in its written order or judgment;~~

33 ~~(A) Not less than two (2) years but no more than ten (10)~~  
 34 ~~years; or~~

35 ~~(B) Not less than three (3) years but no more than ten~~  
 36 ~~(10) years if a passenger under sixteen (16) years of age was in the motor~~

1 ~~vehicle or motorboat at the time of the offense.~~

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 3 SECTION 2. Arkansas Code § 16-98-303(c), concerning what offenders are  
 4 disqualified from a drug court program, is amended to read as follows:

5 (c)(1) A drug court program shall not be available to any defendant  
 6 who:

7 (A) Has a pending charge for a violent felony against him  
 8 or her;

9 (B) Has been convicted of a violent felony offense as  
 10 defined in this subchapter or adjudicated delinquent as a juvenile of a  
 11 violent felony offense; ~~or~~

12 (C)(i) Is required to register under the Sex Offender  
 13 Registration Act of 1997, § 12-12-901 et seq.

14 (ii) The exclusion under subdivision (c)(1)(C)(i) of  
 15 this section shall not apply to the offense of prostitution, § 5-70-102-; or

16 (D) Is charged with a felony violation of driving or  
 17 boating while intoxicated, § 5-65-103.

18 (2) Eligible offenses may be further restricted by the rules of  
 19 a specific drug court program.

20 (3) Nothing in this subchapter shall require a drug court judge  
 21 to consider or accept every offender with a treatable condition or addiction,  
 22 regardless of the fact that the controlling offense is eligible for  
 23 consideration in the drug court program.

24 (4) Any defendant who is denied entry to a drug court program  
 25 shall be prosecuted as provided by law.

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