1	State of Arkansas	As Engrossed: H3/9/17 A D:11	
2	91st General Assembly	A Bill	
3	Regular Session, 2017		HOUSE BILL 1798
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5	By: Representative Blake		
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7	For An Act To Be Entitled		
8	AN ACT AMENDING THE BURDEN OF PROOF REQUIRED DURING		
9	THE SENTENCING PHASE OF A TRIAL WHEN THE STATE SEEKS		
10	THE DEATH	H PENALTY; AND FOR OTHER PURPOSES.	
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13		Subtitle	
14		NDING THE BURDEN OF PROOF REQUIRED	
15		ING THE SENTENCING PHASE OF A TRIAL	
16	WHE	N THE STATE SEEKS THE DEATH PENALTY.	
17			
18	DE IM ENAOMED DV MILE	CENEDAL ACCENDIN OF MILE CHAME OF ADIA	
19	BE IT ENACTED BY THE	GENERAL ASSEMBLY OF THE STATE OF ARKA	NSAS:
20 21		cansas Code § 5-4-603 is amended to re	ad as follows.
22			
22		ngs required for death sentence — Harm shall impose a sentence of death if t	
24	(a) The July returns written finds	-	lle july unanimously
25		aggravating circumstance exists beyond	a reaconable any
26	doubt;		a reasonabre <u>any</u>
27		gravating circumstances outweigh beyon	d a reasonable any
28		circumstances found to exist; and	<i></i>
29		ravating circumstances justify a sente.	nce of death bevond
30	a reasonable <u>any</u> doul		
31		defendant is guilty of each element o	f the underlying
32	offense beyond any de		
33	(b) The jury s	shall impose a sentence of life imprise	onment without
34	parole if the jury f i		
35		cavating circumstances do not exist be	yond a reasonable
36	doubt;		



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1	(2) Aggravating circumstances do not outweigh beyond a		
2	reasonable doubt all mitigating circumstances found to exist; or		
3	(3) Aggravating circumstances do not justify a sentence of death		
4	beyond a reasonable doubt. does not return the necessary unanimous written		
5	findings required to impose a sentence of death under subsection (a) of this		
6	section.		
7	(c) If the jury does not make any finding required by subsection (a)		
8	of this section, the court shall impose a sentence of life imprisonment		
9	without parole.		
10	(d)(l) On an appellate review of a death sentence, the Supreme Court		
11	shall conduct a harmless error review of the defendant's death sentence if:		
12	(A) The Supreme Court finds that the jury erred in finding		
13	the existence of any aggravating circumstance for any reason; and		
14	(B) The jury found no <u>did not find a</u> mitigating		
15	circumstance.		
16	(2) The Supreme Court shall conduct a harmless error review		
17	under subdivision (d)(l) of this section by determining that a remaining		
18	aggravating circumstance:		
19	(A) Exists beyond a reasonable <u>any</u> doubt; and		
20	(B) Justifies a sentence of death beyond a reasonable <u>any</u>		
21	doubt.		
22	(e) If the Supreme Court concludes that the erroneous finding of any		
23	aggravating circumstance by the jury would not have changed the jury's		
24	decision to impose the death penalty on the defendant, then a simple majority		
25	of the court may vote to affirm the defendant's death sentence.		
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27	/s/Blake		
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