

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

A Bill

HOUSE BILL 2103

5 By: Representative V. Flowers
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE SENTENCES AVAILABLE FOR A
9 CAPITAL OFFENSE; AND FOR OTHER PURPOSES.
10

Subtitle

11 CONCERNING THE SENTENCES AVAILABLE FOR A
12 CAPITAL OFFENSE.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. DO NOT CODIFY. Legislative findings.

20 The General Assembly finds that:

21 (1) Innocent people have been convicted and executed. Since
22 1976, over one thousand four hundred (1,400) executions occurred in the
23 United States, but one hundred fifty-six (156) innocent people also were
24 released from death row. That is one (1) exoneration for every ten (10)
25 executions. On average, these innocent people spent between eleven (11) and
26 twelve (12) years on death row before being exonerated. Sometimes, an
27 exoneration comes too late. In 2009, the Texas case of Cameron Willingham
28 gained international attention when it was revealed that the arson for which
29 he was convicted was not arson after all. Texas had executed an innocent
30 man. In 2014, South Carolina vacated the conviction of George Stinney, Jr.,
31 a fourteen (14) year old child who was executed in 1929 and is noted as the
32 youngest person executed in the United States;

33 (2) The death penalty is unfair and arbitrary. Studies
34 continually show race plays a major role in the application of the death
35 penalty. A recent study by the University of Arkansas Bowen School of Law
36 shows that blacks are over two times more likely than whites to receive the



1 death penalty for a charge of capital murder. Black men comprise less than
2 eight percent (8%) of Arkansas's population, but make up fifty percent (50%)
3 of Arkansas's death row inmates. Arkansas has executed one hundred ninety-
4 five (195) persons since the state began to keep records. Of those persons
5 executed, one hundred thirty-four (134) were black males, which is sixty-one
6 percent (61%). Data shows that prosecutors are ten (10) times more likely to
7 seek the death penalty with a black defendant accused of killing a white
8 victim. In addition to being racially unfair, the death penalty targets
9 lower-income offenders. The American Bar Association, a conservative group
10 of nearly four hundred thousand (400,000) lawyers, has called for a halt on
11 executions, due in part to the failure to provide adequate counsel and
12 resources to capital defendants;

13 (3) The death penalty is more expensive than a sentence of life
14 without parole. Arkansas has not yet studied the costs associated with the
15 death penalty, but other states have found capital punishment to be a costly
16 government program that diverts millions of dollars from programs and
17 agencies that protect the public and save lives. The most rigorous cost
18 study in the country found that a single death sentence in Maryland costs
19 almost two million dollars (\$2,000,000) more than a similar non-death penalty
20 case. And Maryland is not alone. Studies in more than a dozen states show
21 that the death penalty can be up to six (6) times more expensive than a
22 sentence of life without parole;

23 (4) A leading mental health group, Mental Health America,
24 estimates that twenty percent (20%) of all death row inmates suffer from a
25 severe mental illness. While the United States Supreme Court prohibited the
26 execution of people with mental retardation in the case of Atkins v.
27 Virginia, 536 U.S. 304 (2002), the United States Supreme Court has not yet
28 ruled that it is unconstitutional to execute someone who suffered from a
29 serious mental illness at the time of the crime. Further, poor people are
30 executed much more often than wealthy murderers. Over ninety-nine percent
31 (99%) of the people on death row are indigent, according to one United States
32 Court of Appeals judge. Persons of all income levels commit murder, but poor
33 people are the primary recipients of the death penalty;

34 (5) Capital punishment does not deter crime. A New York Times
35 survey found that during the last twenty (20) years, the homicide rate in a
36 state with the death penalty was forty-eight percent (48%) to one hundred

1 percent (100%) higher than in a state that does not have the death penalty.
2 A recent poll showed police chiefs rank the death penalty last as a way of
3 reducing violent crime – behind curbing drug use, hiring more police
4 officers, and reducing guns on the street. Eighty-seven percent (87%) of
5 criminology experts agree that the death penalty fails to deter crime.

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7 SECTION 2. Arkansas Code § 5-4-615 is amended to read as follows:

8 5-4-615. Conviction – Punishments.

9 A person convicted of a capital offense shall be punished by ~~death by~~
10 ~~lethal injection~~ life imprisonment or by life imprisonment without parole
11 ~~pursuant to~~ under this subchapter.

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13 SECTION 3. Arkansas Code § 5-10-101(c)(1), concerning the penalties
14 for capital murder, is amended to read as follows:

15 (c)(1) Capital murder is punishable as follows:

16 (A) If the defendant was eighteen (18) years of age or
17 older at the time he or she committed the capital murder:

18 (i) ~~Death~~ Life imprisonment; or

19 (ii) Life imprisonment without parole under §§ 5-4-
20 601 – 5-4-605, 5-4-607, and 5-4-608; or

21 (B) If the defendant was younger than eighteen (18) years
22 of age at the time he or she committed the capital murder:

23 (i) Life imprisonment without parole as it is
24 defined in § 5-4-606; or

25 (ii) Life imprisonment with the possibility of
26 parole after serving a minimum of twenty-eight (28) years' imprisonment.

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28 SECTION 4. Arkansas Code § 5-51-201(c), concerning the penalties for
29 treason, is amended to read as follows:

30 (c) Treason is punishable by ~~death~~ life imprisonment or life
31 imprisonment without parole ~~pursuant to~~ under §§ 5-4-601 – 5-4-605, 5-4-607,
32 and 5-4-608.