

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

# A Bill

SENATE BILL 516

5 By: Senator G. Stubblefield  
6

## For An Act To Be Entitled

8 AN ACT AMENDING THE SENTENCING RANGE FOR MURDER IN  
9 THE FIRST DEGREE AND CONSPIRACY TO COMMIT CAPITAL  
10 MURDER AND MURDER IN THE FIRST DEGREE; CONCERNING THE  
11 REOPENING OF UNSOLVED MURDER CASES; REQUIRING BAIL OF  
12 AT LEAST ONE MILLION DOLLARS (\$1,000,000) WHEN  
13 CAPITAL MURDER CHARGES ARE BROUGHT; CONCERNING PAROLE  
14 FOR MURDER CONVICTIONS; AND FOR OTHER PURPOSES.  
15

## Subtitle

16  
17  
18 AMENDING THE SENTENCING RANGE FOR CERTAIN  
19 MURDER CONVICTIONS; CONCERNING THE  
20 REOPENING OF UNSOLVED MURDER CASES;  
21 CONCERNING A MINIMUM BAIL IN A MURDER  
22 CASE; AND CONCERNING PAROLE FOR MURDER  
23 CONVICTIONS.  
24

25  
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
27

28 SECTION 1. Arkansas Code § 5-3-404 is amended to read as follows:

29 5-3-404. Classification.

30 Criminal conspiracy is a:

31 (1) Class A felony if an object of the conspiracy is commission  
32 of ~~capital murder~~ murder in the first degree, § 5-10-102, treason, § 5-51-  
33 201, or a Class Y felony, unless the Class Y felony is capital murder, § 5-  
34 10-101, in which case the criminal conspiracy is an unclassified felony with  
35 a sentencing range of at least twenty-five (25) years but no more than life;  
36

(2) Class B felony if an object of the conspiracy is commission



1 of a Class A felony;

2 (3) Class C felony if an object of the conspiracy is commission  
3 of a Class B felony;

4 (4) Class D felony if an object of the conspiracy is commission  
5 of a Class C felony;

6 (5) Class A misdemeanor if an object of the conspiracy is  
7 commission of a Class D felony or an unclassified felony;

8 (6) Class B misdemeanor if an object of the conspiracy is  
9 commission of a Class A misdemeanor; or

10 (7) Class C misdemeanor if an object of the conspiracy is  
11 commission of a Class B misdemeanor.

12

13 SECTION 2. Arkansas Code § 5-10-102(c), concerning the sentencing  
14 range for murder in the first degree, is amended to read as follows:

15 (c) Murder in the first degree is ~~a Class Y~~ an unclassified felony,  
16 with a sentencing range of at least twenty-five (25) years but no more than  
17 life.

18

19 SECTION 3. Arkansas Code Title 12, Chapter 12, Subchapter 1, is  
20 amended to add a new section to read as follows:

21 12-12-110. Investigations of unsolved murder cases.

22 A law enforcement agency having jurisdiction of a murder case that has  
23 been closed for lack of evidence shall reopen the case no later than fifteen  
24 (15) years after either the offense was thought to have occurred or after the  
25 case was closed, whichever is later, and shall reexamine the entirety of the  
26 case, including a review of all evidence and, if applicable, questioning all  
27 suspects and witnesses, with the intent to solve the murder.

28

29 SECTION 4. Arkansas Code Title 16, Chapter 84, Subchapter 1, is  
30 amended to add a new section to read as follows:

31 16-84-117. Bail in cases concerning capital murder or murder in the  
32 first degree.

33 Notwithstanding the requirements of Rule 9 of the Arkansas Rules of  
34 Criminal Procedure, a judicial officer shall set bail for a person accused of  
35 capital murder, § 5-10-101, murder in the first degree, § 5-10-102, or  
36 conspiracy to commit capital murder, § 5-10-101, or murder in the first

1 degree, § 5-10-102, at an amount of not less than one million dollars  
2 (\$1,000,000).

3  
4 SECTION 5. Arkansas Code § 16-93-612 is amended to read as follows:  
5 16-93-612. Parole eligibility – Date of offense.

6 (a) A person’s parole eligibility shall be determined by the laws in  
7 effect at the time of the offense for which he or she is sentenced to the  
8 Department of Correction.

9 ~~(b) For an offender~~

10 (b) For a person serving a sentence for a felony committed:

11 (1) before ~~Before~~ April 1, 1977, § 16-93-601 governs that  
12 person’s parole eligibility;

13 ~~(e)(2) For an offender serving a sentence for a felony committed~~  
14 ~~between~~ On or after April 1, 1977, ~~and but before~~ April 1, 1983, § 16-93-604  
15 governs that person’s parole eligibility;

16 ~~(d)(3) For an offender serving a sentence for a felony committed~~  
17 ~~on~~ On or after April 1, 1983, but before January 1, 1994, § 16-93-607 governs  
18 that person’s parole eligibility; and

19 ~~(e)(4) For an offender serving a sentence for a felony committed~~  
20 ~~on~~ On or after January 1, 1994;

21 (A) § Section 16-93-614 governs that person’s parole  
22 eligibility, unless otherwise noted and except:

23 ~~(1) If the felony is murder in the first degree, §~~  
24 ~~5-10-102, kidnapping, if a Class Y felony, § 5-11-102(b)(1), aggravated~~  
25 ~~robbery, § 5-12-103, rape, § 5-14-103, or causing a catastrophe, § 5-38-~~  
26 ~~202(a), and the offense occurred after July 28, 1995, § 16-93-618 governs~~  
27 ~~that person’s parole eligibility;~~

28 ~~(2) If the felony is manufacturing methamphetamine,~~  
29 ~~§ 5-64-423(a) or the former § 5-64-401, or possession of drug paraphernalia~~  
30 ~~with the intent to manufacture methamphetamine, the former § 5-64-403(e)(5),~~  
31 ~~and the offense occurred after April 9, 1999, § 16-93-618 governs that~~  
32 ~~person’s parole eligibility; or~~

33 ~~(3) If the felony is battery in the second degree, §~~  
34 ~~5-13-202, aggravated assault, § 5-13-204, terroristic threatening, § 5-13-~~  
35 ~~301, domestic battering in the second degree, § 5-26-304, or residential~~  
36 ~~burglary, § 5-39-201, and the offense occurred on or after April 1, 2015, §~~

1 ~~16-93-619 governs that person's parole eligibility.~~

2 ~~(f) For an offender serving a sentence for a felony committed on or~~  
 3 ~~after January 1, 1994, §~~

4 (i) Section 16-93-618 governs that person's parole  
 5 eligibility if the felony occurred:

6 (a) After July 28, 1995, and is:

7 (1) Murder in the first degree, § 5-10-  
 8 102;

9 (2) Kidnapping, § 5-11-102, if a Class Y  
 10 felony;

11 (3) Aggravated robbery, § 5-12-103;

12 (4) Rape, § 5-14-103; or

13 (5) Causing a catastrophe, § 5-38-  
 14 202(a); or

15 (b) After the effective date of this act and  
 16 is conspiracy to commit capital murder, § 5-10-101, or murder in the first  
 17 degree, § 5-10-102;

18 (ii) Section 16-93-618 governs that person's parole  
 19 eligibility date if the felony occurred after April 9, 1999, and is:

20 (a) Manufacturing methamphetamine, § 5-64-  
 21 423(a) or the former § 5-64-401; or

22 (b) Possession of drug paraphernalia with the  
 23 intent to manufacture methamphetamine, the former § 5-64-403(c)(5); or

24 (iii) Section 16-93-620 governs that person's parole  
 25 eligibility date if the felony occurred on or after April 1, 2015, and is:

26 (a) Battery in the second degree, § 5-13-202;

27 (b) Aggravated assault, § 5-13-204;

28 (c) Terroristic threatening, § 5-13-301;

29 (d) Domestic battering in the second degree, §  
 30 5-26-304; or

31 (e) Residential burglary, § 5-39-201; and

32 (B) Section 16-93-615 governs that person's parole  
 33 eligibility procedures.

34  
 35 SECTION 6. Arkansas Code § 16-93-618 is amended to read as follows:

36 16-93-618. Parole eligibility – Certain Class Y felony offenses and

1 certain methamphetamine offenses – Seventy-percent crimes.

2 (a)(1) Notwithstanding any law allowing the award of meritorious good  
3 time or any other law to the contrary, a person who is found guilty of or  
4 pleads guilty or nolo contendere to subdivisions (a)(1)(A)-(I) of this  
5 section shall not be eligible for parole or community correction transfer,  
6 except as provided in subdivision ~~(a)(3)~~(a)(4) or subsection (c) of this  
7 section, until the person serves seventy percent (70%) of the term of  
8 imprisonment to which the person is sentenced, including a sentence  
9 prescribed under § 5-4-501:

10 (A) Murder in the first degree, § 5-10-102, if committed  
11 before the effective date of this act;

12 (B) Kidnapping, Class Y felony, § 5-11-102;

13 (C) Aggravated robbery, § 5-12-103;

14 (D) Rape, § 5-14-103;

15 (E) Trafficking of persons, Class Y felony, § 5-18-103;

16 (F) Causing a catastrophe, § 5-38-202(a);

17 (G) Manufacturing methamphetamine, § 5-64-423(a) or the  
18 former § 5-64-401;

19 (H) Trafficking methamphetamine, § 5-64-440(b)(1); or

20 (I) Possession of drug paraphernalia with the purpose to  
21 manufacture methamphetamine, the former § 5-64-403(c)(5).

22 (2) Notwithstanding any law allowing the award of meritorious  
23 good time or any other law to the contrary, a person who is found guilty of  
24 or pleads guilty or nolo contendere to murder in the first degree, § 5-10-  
25 102, or conspiracy to commit capital murder, § 5-10-101, or murder in the  
26 first degree, § 5-10-102, committed after the effective date of this act is  
27 not eligible for parole or community correction transfer, except as provided  
28 in subdivision (a)(4) of this section or subsection (c) of this section,  
29 until the person serves at least twenty-five (25) years in prison or seventy  
30 percent (70%) of the term of imprisonment to which the person is sentenced,  
31 whichever is longer, including a sentence prescribed under § 5-4-501.

32 ~~(2)(A)~~(3)(A) The seventy-percent provision of subdivision (a)(1)  
33 of this section has no application to any person who is found guilty of or  
34 pleads guilty or nolo contendere to kidnapping, Class B felony, § 5-11-102,  
35 regardless of the date of the offense.

36 (B) The provisions of this section shall apply

1 retroactively to all persons presently serving a sentence for kidnapping,  
2 Class B felony, § 5-11-102.

3 ~~(3)(A)(i)~~(4)(A)(i) Regardless of the date of the offense, the  
4 seventy-percent provision under subdivision (a)(1) of this section shall  
5 include credit for the award of meritorious good time under § 12-29-201 to  
6 any person who is found guilty of or pleads guilty or nolo contendere to:

7 (a) Manufacturing methamphetamine, § 5-64-  
8 423(a) or the former § 5-64-401;

9 (b) Trafficking methamphetamine, § 5-64-  
10 440(b)(1); or

11 (c) Possession of drug paraphernalia with the  
12 purpose to manufacture methamphetamine, the former § 5-64-403(c)(5).

13 (ii) Regardless of the date of the offense and  
14 unless the person is sentenced to a term of life imprisonment, the seventy-  
15 percent provision under subdivision (a)(1) of this section may include credit  
16 for the award of meritorious good time under § 12-29-202 to any person who is  
17 found guilty of or pleads guilty or nolo contendere to:

18 (a) Manufacturing methamphetamine, § 5-64-  
19 423(a) or the former § 5-64-401;

20 (b) Trafficking methamphetamine, § 5-64-  
21 440(b)(1); or

22 (c) Possession of drug paraphernalia with the  
23 purpose to manufacture methamphetamine, the former § 5-64-403(c)(5).

24 (B) In no event shall the time served by any person who is  
25 found guilty of or pleads guilty or nolo contendere to manufacturing  
26 methamphetamine, § 5-64-423(a) or the former § 5-64-401, trafficking  
27 methamphetamine, § 5-64-440(b)(1), or possession of drug paraphernalia with  
28 the purpose to manufacture methamphetamine, § 5-64-443(a)(2), be reduced to  
29 less than fifty percent (50%) of the person's original sentence.

30 ~~(4)(A)(5)(A)~~ When any person sentenced under subdivision  
31 ~~(a)(3)(a)(4)~~ of this section becomes eligible for parole, the Department of  
32 Community Correction shall send a notice of the parole hearing to the  
33 prosecuting attorney of the judicial district or districts in which the  
34 person was found guilty or pleaded guilty or nolo contendere to an offense  
35 listed in subdivision (a)(1) of this section.

36 (B) The notice shall contain the following language in 12-

1 point capital letters, bold type: "INMATE SENTENCED UNDER ARKANSAS CODE § 16-  
2 93-618".

3 (b) A jury may be instructed under § 16-97-103 regarding the awarding  
4 of meritorious good time under subdivision ~~(a)(3)~~(a)(4) of this section.

5 (c) The sentencing judge, in his or her discretion, may waive  
6 subsection (a) of this section under the following circumstances:

7 (1) The defendant was a juvenile at the time of the offense;

8 (2) The juvenile was merely an accomplice to the offense; and

9 (3) The offense occurred on or after July 28, 1995, except for  
10 murder in the first degree, § 5-10-102, conspiracy to commit capital murder,  
11 § 5-10-101, or conspiracy to commit murder in the first degree, § 5-10-102,  
12 if the offense occurred after the effective date of this act.

13 (d) The awarding of meritorious good time under § 12-29-201 or § 12-  
14 29-202 does not apply to persons sentenced under subdivisions (a)(1)(A)-(E)  
15 of this section or subdivision (a)(2) of this section.

16 (e) A person who commits the offense of possession of drug  
17 paraphernalia with the purpose to manufacture methamphetamine, § 5-64-443,  
18 after July 27, 2011, shall not be subject to the provisions of this section.