

State of Arkansas  
90th General Assembly  
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As Engrossed: H3/17/15 H3/25/15

# A Bill

HOUSE BILL 1977

By: Representative C. Armstrong

## For An Act To Be Entitled

AN ACT CONCERNING THE SENTENCING OF A CRIMINAL  
DEFENDANT; CONCERNING ALTERNATIVE SENTENCES;  
CONCERNING PREADJUDICATION AND POSTADJUDICATION  
PROBATION PROGRAMS; AND FOR OTHER PURPOSES.

### Subtitle

CONCERNING THE SENTENCING OF A CRIMINAL  
DEFENDANT; CONCERNING ALTERNATIVE  
SENTENCES; AND CONCERNING PREADJUDICATION  
AND POSTADJUDICATION PROBATION PROGRAMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*SECTION 1. Arkansas Code § 5-4-303(c)-(e), concerning the terms and conditions of a defendant's probation or suspended imposition of sentence, is amended to read as follows:*

*(c) If the court suspends imposition of sentence on a defendant or places him or her on probation, as a condition of its order the court may require that the defendant:*

*(1) Support his or her dependents and meet his or her family responsibilities;*

~~*(2) Work faithfully at suitable employment;*~~

~~*(3) Pursue a prescribed secular course of study or vocational training designed to equip him or her for suitable employment;*~~

~~*(4)*~~ *(2) Undergo available medical or psychiatric treatment and enter and remain in a specified institution when required for medical or psychiatric treatment;*



~~(5)~~(3) Participate in a community-based rehabilitative program or work-release program that uses practices proven to reduce recidivism and for which the court may impose a reasonable fee or assessment on the defendant to be used in support of the community-based rehabilitative program or work-release program;

~~(6)~~(4) Refrain from frequenting an unlawful or designated place or consorting with a designated person;

~~(7)~~(5) Have no firearm in his or her possession;

~~(8)~~(6) Make restitution to an aggrieved party in an amount the defendant can afford to pay for the actual loss or damage caused by his or her offense;

~~(9)~~(7) Post a bond, with or without surety, conditioned on the performance of a prescribed condition; and

~~(10)~~(8) Satisfy any other condition reasonably related to the rehabilitation of the defendant and not unduly restrictive of his or her liberty or incompatible with his or her freedom of conscience.

(d) If the court places a defendant on probation, as a condition of its order the court may require that the defendant:

(1) Report as directed to the court or the probation officer and permit the probation officer to visit the defendant at the defendant's place of employment or elsewhere;

(2) Remain within the jurisdiction of the court unless granted permission to leave in a written statement by the court or the probation officer; and

(3) Answer any reasonable inquiry by the court or the probation officer and promptly notify the court or probation officer of any change in address or employment.

(e) If the court suspends imposition of sentence on a defendant or places him or her on probation, the ~~defendant~~ court shall:

(1) Require that the defendant either:

(A) Work consistently in suitable employment for the entire duration of his or her suspended sentence or probation or for three (3) years, whichever occurs earlier; or

(B)(i) If the defendant is unemployed, pursue a prescribed secular course of study and show continuous progress in improving academic skills and education by increasing his or her reading, math, and

communication skills to at least the ninth grade level regardless of a prior high school or other educational credentials.

(ii) Under subdivision (e)(1)(B)(i) of this section, a defendant shall also meet at least one (1) of the following benchmarks:

(a) Earn a Career Readiness Certificate;

(b) Earn a Workforce Alliance for Growth in the Economy Certificate;

(c) Earn a high school diploma by passing the Department of Career Education approved assessment; or

(d) Enroll in vocational training designed to equip him or her for suitable employment.

(iii) If the defendant is serving a suspended sentence or is on probation at the end of the study or training required by subdivision (e)(1)(B)(i) of this section, he or she shall work in suitable employment for the remainder of his or her suspended sentence or probation or for three (3) years, whichever occurs earlier; and

(2) ~~be given~~ Give the defendant a written statement explicitly setting forth the conditions under which he or she is being released.

SECTION 2. Arkansas Code § 5-4-903(b), concerning the incorporation of services into a pre-adjudication probation program, is amended to read as follows:

(b)(1) A pre-adjudication probation program may incorporate services from various state agencies and educational institutions, including without limitation the Department of Community Correction, ~~and~~ the Department of Human Services, the Adult Education Division of the Department of Career Education, vocational schools, technical schools, community colleges, and two-year and four-year public universities.

(2) Participating state agencies and educational institutions may provide:

(A) Persons to serve as pre-adjudication probation officers, drug counselors, or other support staff;

(B) Drug testing and other substance-abuse facilities;

(C) Intensive short-term and long-term residential treatment for participants in the pre-adjudication probation program who have demonstrated a need for substance abuse treatment or other mental health-

related treatment; ~~and~~

(D) Educational materials, classrooms, and staff; and

~~(D)(E)~~ Other personnel, support staff, or facilities that the circuit court administering the pre-adjudication probation program finds necessary or helpful.

SECTION 3. Arkansas Code § 5-4-907(a), concerning costs and fees associated with a pre-adjudication program, is amended to read as follows:

(a) The pre-adjudication probation program judge may order the offender to pay:

- (1) Court costs as provided in § 16-10-305;
- (2) Any substance abuse treatment costs;
- (3) Drug testing costs;
- (4) Costs associated with mental health treatment;
- (5) A pre-adjudication probation program user fee;
- (6) Any restitution owed the victim of the charged criminal

offense;

- (7) Necessary supervision fees;
- (8) Any applicable residential treatment fees; ~~and~~
- (9) Tuition and other educational fees for vocational schools,

technical schools, community colleges, or two-year and four-year public universities that are part of the pre-adjudication probation program for which the offender is participating; and

~~(9)(10)~~ Any fees determined or authorized under § 12-27-125(b)(17)(B) or § 16-93-104(a)(1), which are to be paid to the Department of Community Correction.

SECTION 4. Arkansas Code § 5-4-908(b), concerning the training and implementation manual associated with a pre-adjudication program, is amended to read as follows:

(b) Each judicial district may develop a training and implementation manual for a pre-adjudication probation program with the assistance of ~~the~~:

- (1) The Department of Human Services;
- (2) The Department of Education;
- (3) The Department of Career Education;
- (4) The Department of Community Correction; ~~and~~

(5) The Administrative Office of the Courts; and  
 (6) Any vocational school, technical school, community college, or two-year and four-year public university that has volunteered to be part of the pre-adjudication program in the judicial district.

SECTION 5. Arkansas Code Title 5, Chapter 4, Subchapter 9, is amended to add an additional section to read as follows:

5-4-913. Education screening.

A person eligible to enter a pre-adjudication program under this subchapter shall have his or her education level assessed by the court by completing a reading, literacy, and math assessment by the Department of Career Education.

SECTION 6. Arkansas Code § 12-29-309 is amended to read as follows:

12-29-309. Riverside Vocational and Technical School – Facilities – Operations – Rules ~~and regulations.~~

(a)(1) ~~For the purpose of enabling the Department of Correction and the Department of Community Correction to fulfill their legal responsibilities as correctional institutions, the~~ The State Board of Career Education shall locate facilities and operate vocational education vocational or technical education or training programs within the Riverside Vocational and Technical School under such agreements, and.

(2) ~~The operation of the school is subject to such special rules and regulations, as are deemed appropriate for the operation of vocational and technical school~~ vocational or technical education or training programs at the facilities of the correctional institutions under the control of the Department of Correction and the Department of Community Correction in accordance with agreements, and rules, and regulations mutually developed and agreed to by the State Board of Career Education and the Board of Corrections.

(b)(1) ~~The school shall be entitled to all funds, rights, and privileges and shall be operated in the same manner as other area vocational and technical schools are operated in this state but.~~

(2) ~~However, the school shall be operated in accordance with the special rules and regulations for the operation of such vocational and technical school~~ vocational or technical education or training programs at

facilities of the Department of Correction and the Department of Community Correction as provided in §§ 12-29-306 – 12-29-310.

SECTION 7. Arkansas Code § 16-90-1404(1), concerning the definition of "completion of a person's sentence" under the Comprehensive Criminal Record Sealing Act of 2013, is amended to read as follows:

(1) "Completion of a person's sentence" means that the person, after being found guilty:

(A) ~~Has paid~~ Paid his or her fine, court costs, or other monetary obligation as defined in § 16-13-701 in full, unless the obligation has been excused by the sentencing court;

(B) Served any time in county or regional jail, a Department of Community Correction facility, or a Department of Correction facility in full; and

(C) If applicable:

(i) Has been discharged from probation or parole;

(ii) Completed any suspended sentence;

(iii) Paid any court-ordered restitution;

(iv) Completed any court-ordered community service;

(v) Paid any driver's license suspension reinstatement fees, if a driver's license suspension reinstatement fee was assessed as a result of the person's arrest, plea of guilty or nolo contendere, or a finding of guilt for the offense; ~~and~~

(vi) Completed all other driver's license reinstatement requirements, if a driver's license suspension was imposed as a result of the person's arrest, plea of guilty or nolo contendere, or a finding of guilt for the offense; and

(vii) Completed any vocational or technical education or training program that was required as a condition of the person's parole or probation;

SECTION 8. Arkansas Code § 16-93-303, concerning first-time offenders and court-ordered probation, is amended to add an additional subsection to read as follows:

(f) A court as a condition of probation shall order the defendant to:

(1)(A)(i) Enroll in and complete a vocational, technical,

educational, or similar program if the court finds that the defendant's lack of an employable or marketable skill contributes to the defendant's being unemployed.

(ii) The court may order the person to pay tuition for any vocational, technical, educational, or similar program in installments after the completion of the education or training program.

(B) If the defendant is on probation at the end of the vocational, technical, educational, or similar program required under subdivision (f)(1)(A) of this section, he or she shall be required to work in suitable employment for the remainder of his or her probation or for three (3) years, whichever occurs earlier; or

(2) Work consistently in suitable employment for the entire duration of his or her probation or for three (3) years, whichever occurs earlier.

SECTION 9. Arkansas Code § 16-93-1207, concerning the court order placing a person on probation, is amended to add an additional subsection to read as follows:

(c) A court as a condition of probation shall order the defendant to:

(1)(A)(i) Enroll in and complete a vocational, technical, educational, or similar program if the court finds that the defendant's lack of an employable or marketable skill contributes to the defendant's being unemployed.

(ii) The court may order the person to pay tuition for any vocational, technical, educational, or similar program in installments after the completion of the vocational, technical, educational, or similar program.

(B) If the defendant is on probation at the end of the vocational, technical, educational, or similar program required under subdivision (c)(1)(A) of this section, he or she shall be required to work in suitable employment for the remainder of his or her probation or for three (3) years, whichever occurs earlier; or

(2) Work consistently in suitable employment for the entire duration of his or her probation or for three (3) years, whichever occurs earlier.

*/s/C. Armstrong*

**APPROVED: 04/07/2015**