

Stricken language would be deleted from and underlined language would be added to present law.
Act 1239 of the Regular Session

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: H3/27/15 S3/31/15

A Bill

HOUSE BILL 1371

By: Representative Wright

By: Senator Caldwell

For An Act To Be Entitled

AN ACT CONCERNING PAROLE REVOCATION HEARINGS,
LOCATION OF PAROLE REVOCATION HEARINGS, AND CUSTODY
OF A PAROLEE DURING A PAROLE REVOCATION PROCEEDING;
AND FOR OTHER PURPOSES.

Subtitle

CONCERNING PAROLE REVOCATION HEARINGS,
LOCATION OF PAROLE REVOCATION HEARINGS,
AND CUSTODY OF A PAROLEE DURING A PAROLE
REVOCATION PROCEEDING.

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

SECTION 1. Arkansas Code § 16-93-705 is amended to read as follows:

16-93-705. Revocation – Procedures and hearings generally.

(a)(1)(A)(i) At any time during a parolee's release on parole, the Parole Board may issue a warrant for the arrest of the parolee for violation of any conditions of parole or may issue a notice to appear to answer a charge of a violation.

(ii) The Department of Community Correction shall provide the information necessary for the ~~Parole Board~~ board to issue a warrant under subdivision (a)(1)(A)(i) of this section.

(B)(i) The ~~Parole Board~~ board shall issue a warrant for the arrest of a parolee if the board determines that the parolee has been charged with a felony involving violence, as defined under § 5-4-501(d)(2), or a felony requiring registration under the Sex Offender Registration Act of



1997, § 12-12-901 et seq.

(ii) The Department of Community Correction shall provide the information necessary for the ~~Parole Board~~ board to issue a warrant under subdivision (a)(1)(B)(i) of this section.

(iii) A parolee arrested on a warrant issued under subdivision (a)(1)(B)(i) of this section shall be detained pending a mandatory parole revocation hearing.

(2) The warrant or notice shall be served personally upon the ~~individual~~ parolee.

(3) The warrant shall authorize all officers named in the warrant to place the parolee in custody at any suitable detention facility pending a hearing.

(4) Any parole officer may arrest a parolee without a warrant or may deputize any officer with power of arrest to ~~do so~~ arrest the parolee without a warrant by giving him or her a written statement setting forth that the parolee, in the judgment of the parole officer, violated conditions of his or her parole.

(5) The written statement delivered with the parolee by the arresting officer to the official in charge of the detention facility to which the parolee is brought shall be sufficient warrant for detaining him or her pending disposition.

(6) If the board or its designee finds, by a preponderance of the evidence, that the parolee has inexcusably failed to comply with a condition of his or her parole, the parole may be revoked at any time prior to the expiration of the period of parole.

(7) A parolee for whose return a warrant has been issued by the board shall be deemed a fugitive from justice if it is found that the warrant cannot be served.

(8) The board shall determine whether the time from the issuance of the warrant to the date of arrest, or any part of it, shall be counted as time served under the sentence.

(b)(1) A parolee arrested for violation of parole shall be entitled to a preliminary hearing to determine whether there is reasonable cause to believe that he or she has violated a condition of parole.

(2) The preliminary hearing shall be scheduled within seven (7) days after arrest and conducted within fourteen (14) days after arrest,

excluding a weekend, holiday, or delay caused by an act of nature, by the parole revocation judge for the board ~~as soon as practical after arrest~~ and reasonably near the place of the alleged violation or arrest.

(3) The parolee shall be given prior notice of the date, time, and location of the preliminary hearing, the purpose of the preliminary hearing, and the conditions of parole he or she is alleged to have violated.

(4) Except as provided in subsection (d) of this section, the parolee shall have the right to hear and controvert evidence against him or her, to offer evidence in his or her own behalf, and to be represented by counsel.

(5) If the parole revocation judge finds that there is reasonable cause to believe that the parolee has violated a condition of parole, the parole revocation judge may order the parolee returned to the ~~custody~~ nearest facility of the Department of Correction or Department of Community Correction where the parolee shall be placed in custody for a parole revocation hearing before the board.

(6) If the parole revocation judge finds that there is reasonable cause to believe that the parolee has violated a condition of parole, the parole revocation judge may return the ~~offender~~ parolee to parole supervision rather than to the custody of the Department of Correction and may impose additional supervision conditions in response to the violating conduct.

(7) If the parole revocation judge does not find reasonable cause, he or she shall order the parolee released from custody, but that action shall not bar the board from holding a parole revocation hearing on the alleged violation of parole or from ordering the parolee to appear before ~~the~~ the board.

(8) The parole revocation judge shall prepare and furnish to the board and the parolee a summary of the parole revocation hearing, including the substance of the evidence and testimony considered along with the ruling or determination within twenty-one (21) days from the date of the preliminary hearing, excluding a weekend, holiday, or delay caused by an act of nature.

(c)(1)(A) Unless a parole revocation hearing is knowingly and intelligently waived by the parolee, a parole shall not be revoked except after a parole revocation hearing, which shall be conducted by the board or its designee within a reasonable period of time after the parolee's arrest.

(B) *If a waiver is granted under subdivision (c)(1)(A) of this section, the parolee may subsequently appeal the waiver to the board.*

(2) *The parolee shall be given prior notice of the date, time, and location of the parole revocation hearing, the purpose of the parole revocation hearing, and the conditions of parole he or she is alleged to have violated.*

(3) *Except as provided in subsection (d) of this section, the parolee shall have the right to hear and controvert evidence against him or her, to offer evidence in his or her own defense, and to be represented by counsel.*

(4) *If parole is revoked, the board or its designee shall prepare and furnish to the parolee a written statement of evidence relied on and the reasons for revoking parole.*

(d) *At a preliminary hearing under subsection (b) of this section or a parole revocation hearing under subsection (c) of this section:*

(1) *The parolee shall have the right to confront and cross-examine adverse witnesses unless the parole revocation judge or the board or its designee specifically finds good cause for not allowing confrontation; and*

(2) *The parolee may introduce any relevant evidence of the alleged violation, including letters, affidavits, and other documentary evidence, regardless of its admissibility under the rules governing the admission of evidence.*

(e) *A preliminary hearing under subsection (b) of this section shall not be required if:*

(1) *The parolee waives a preliminary hearing; or*

(2) *Unless a parole revocation hearing is knowingly and intelligently waived by the parolee under subsection (c) of this section, the parole revocation hearing under subsection (c) of this section is held ~~promptly~~ within fourteen (14) calendar days after the arrest and reasonably near the place where the alleged violation occurred or where the parolee was arrested.*

(f) *A preliminary hearing under subsection (b) of this section and a parole revocation hearing under subsection (c) of this section shall not be necessary if the parole revocation is based on the parolee's conviction, guilty plea, or plea of nolo contendere to a felony offense for which he or*

she is sentenced to the Department of Correction or to any other state or federal ~~penal~~ correctional institution.

(g) The county sheriff or keeper of the county jail may permit the parolee to be held in the county jail while awaiting the parole revocation hearing under this section and ruling of the board or its designee.

/s/Wright

APPROVED: 04/08/2015