

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: H3/20/15
A Bill

HOUSE BILL 1666

By: Representative Vines
By: Senator J. Hutchinson

For An Act To Be Entitled

AN ACT CONCERNING THE APPLICATION TO TERMINATE A
PERSON'S PAROLE OR PROBATION; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE APPLICATION TO TERMINATE A
PERSON'S PAROLE OR PROBATION.

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

*SECTION 1. Arkansas Code § 16-90-1304 is amended to read as follows:
16-90-1304. Application.*

(a) When a person has accumulated enough days, through a combination of served and earned time equal to the total number of days of the sentence imposed by the sentencing court, he or she shall ~~have attained completion of~~ be eligible for consideration of discharge of his or her sentence under this subchapter.

(b)(1) No less than forty-five (45) days before the discharge date, the Department of Community Correction shall submit notice to:

(A) The prosecuting attorney; and

(B) The Parole Board.

(2) Within thirty (30) days ~~before the discharge date of receipt of the earned discharge notice,~~ submit to the department in writing any reasonable objection to early discharge under this subchapter warranting the forfeiture of earned-discharge credit.

(3) If ~~a petition stating~~ an objection under subdivision (b)(2)



of this section is lodged, the department shall immediately suspend the discharge of the sentence ~~pending a review of the evidence contained in the objection by the sentencing court.~~

(4) The parolee or probationer may file a petition for review in the sentencing court.

~~(4)~~(5) A review shall be conducted in the sentencing court within fourteen (14) days of the filing of the petition.

~~(5)(A)~~(6)(A) ~~Upon the request of the prosecuting attorney or the Parole Board, the~~ The sentencing court shall consider the objections against the person based solely on the information contained in the petition.

(B) The sentencing court shall determine, based on a preponderance of the evidence, whether the person should not be discharged from the sentence because, if the information contained in the petition had been known to the Department of Community Correction, the department would have ordered the forfeiture of any of the discharge credit earned to that point or if insufficient evidence exists that would warrant the forfeiture of discharge credit.

(C) If the sentencing court finds sufficient evidence warranting a forfeiture of discharge credits, the department shall make the necessary forfeiture of earned discharge credit appropriate for the type of misconduct asserted in the objection.

(D)(i) If the sentencing court does not find sufficient evidence exists that warrants forfeiture of discharge credits, the department shall discharge the person immediately if the date upon which the completion of the sentence occurred has passed.

(ii) If the date for completion of the sentence has not occurred, the person shall return to the status held at the point the objection was filed.

(c) If the prosecuting attorney or the board does not file an objection, upon the filing of a petition in the sentencing court by the parolee or probationer stating that no objections have been filed, the court may discharge the person immediately if the date upon which the completion of the sentence has passed.

~~(6)~~(d) An appeal may not be taken by either party from the sentencing court's findings or the department's decision for early discharge.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Department of Community Correction has changed the system for discharging probationers and the department discontinued the former system at the beginning of the year; that the new system is automated and is ready for implementation; and that this act is immediately necessary because in order for a seamless implementation the department would like to begin the new system at the same time the changes in this act become effective. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/Vines

APPROVED: 04/02/2015