

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: S3/11/15
A Bill

SENATE BILL 46

By: Senator J. Hutchinson

For An Act To Be Entitled

AN ACT TO PROVIDE FOR EXTENDED SUPERVISION FOR CERTAIN SEX OFFENDERS WHO WILL BE ELIGIBLE FOR PAROLE, RELEASED FROM PROBATION, OR WILL BE RELEASED FROM THE ARKANSAS STATE HOSPITAL.

Subtitle

TO PROVIDE FOR EXTENDED SUPERVISION FOR CERTAIN SEX OFFENDERS WHO WILL BE ELIGIBLE FOR PAROLE, RELEASED FROM PROBATION, OR WILL BE RELEASED FROM THE ARKANSAS STATE HOSPITAL.

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

SECTION 1. Arkansas Code Title 5, Chapter 4, Subchapter 1, is amended to add an additional section to read as follows:

5-4-107. Extended supervision and monitoring for certain sex offenders.

(a)(1) The Department of Correction within one hundred twenty (120) days before the release on parole of a person who is required to register as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901 et seq., shall notify in writing the prosecuting attorney in the judicial district in which the person was sentenced of the person's impending release on parole.

(2) The Department of Community Correction within one hundred twenty (120) days before the release from probation of a person who is required to register as a sex offender under the Sex Offender Registration



Act of 1997, § 12-12-901 et seq., shall notify in writing the prosecuting attorney in the judicial district in which the person was sentenced of the person's impending release from probation.

(3) The Arkansas State Hospital within thirty (30) days before the release from inpatient treatment of a person who was acquitted of a sex offense by reason of mental disease or defect or who is required to register as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901 et seq., shall notify in writing the prosecuting attorney in the judicial district in which the person was committed of the person's impending release from inpatient treatment.

(b)(1) The prosecuting attorney may file a petition in the circuit court requesting that the person to be released from incarceration, probation, or inpatient treatment be subject to an extended period of supervision and monitoring and alleging that the extended period of supervision and monitoring is necessary because the person poses a serious risk to the public and that there is a likelihood that the person would commit additional criminal offenses.

(2) A copy of the petition and any supporting documents shall be served by the prosecuting attorney on the person in accordance with the Arkansas Rules of Civil Procedure.

(3) If a hearing is requested, it shall be held at the earliest practicable time and at a time and on a date that would accommodate the transport of the person from a Department of Correction facility, Department of Community Correction facility, or the Arkansas State Hospital to the appropriate circuit court.

(c)(1)(A) A person subject to a petition for extended supervision and monitoring filed under this section shall be represented by an attorney if the person requests to be represented by an attorney.

(B) If the person requests an attorney, the circuit court shall conduct a hearing to consider the appointment of an attorney to represent the person.

(2)(A) The person subject to a petition for extended supervision and monitoring filed under this section shall be present at the hearing on the petition.

(B)(i) At the hearing the circuit court shall inform the person of the existence of possible relief under the Arkansas Rules of

Criminal Procedure or as provided by law and shall determine whether the person desires the appointment of an attorney to represent him or her in proceedings under this section.

(ii) If the person waives the appointment of an attorney, the waiver shall be made in open court on the record.

(iii) If the circuit court determines that the person is indigent and that he or she either accepts the appointment of an attorney or is unable to make a competent decision whether to accept or reject an attorney, the circuit court shall issue written findings to that effect and enter a written order appointing an attorney to represent the person in proceedings under this section.

(iv) If the circuit court determines that the person waives the appointment of an attorney and understands the legal consequences of his or her decision, or that the person is not indigent, the circuit court shall issue written findings to that effect and enter a written order declining to appoint an attorney to represent the person in proceedings under this section.

(v) In determining whether the person is indigent, the circuit court shall consider the cost of postconviction proceedings for persons subject to extended supervision and monitoring under this section.

(d)(1) If the circuit court finds by a preponderance of the evidence that the person about to be released from incarceration, probation, or inpatient treatment poses a serious risk to the public and that there is a likelihood that the person would commit additional criminal offenses, the court may order that the person be subject to an extended period of supervision and monitoring for a period of up to fifteen (15) years.

(2)(A) A court order of extended supervision and monitoring under this subsection may be renewed at any time prior to the expiration of the order on the circuit court's own order but only after another hearing and subsequent findings.

(B) A person subject to extended supervision and monitoring under this section is entitled to notice of and to attend the hearing on the renewal, as well as being entitled to contest the renewal of the order of extended supervision and monitoring.

(e)(1) A person who is subject to extended supervision and monitoring under this section may file a petition to be relieved of the order of

extended supervision and monitoring after five (5) years have elapsed since the date of the original order.

(2) The prosecuting attorney is entitled to notice of a petition filed under this subsection and to a hearing on the petition.

(3) The circuit court shall rescind the order for extended supervision and monitoring if the person proves by clear and convincing evidence that he or she no longer poses a serious risk to the public and there is no longer a likelihood that the person would commit additional criminal offenses.

(4) If a petition filed under this subsection is denied, the person may not file another petition under this subsection until five (5) years have elapsed since the date of the order of denial.

(f) An appeal of the grant or denial of a petition filed under this section may be taken by either party as provided by Supreme Court rule, and the appellate court shall review the case using an abuse of discretion standard.

(g) An order for extended supervision and monitoring under this section may include the requirement that the person wear an ankle monitor or other electronic device designed to track the person's movements at all times.

(h) The Department of Community Correction shall administer any extended supervision and monitoring under this section and may adopt rules to implement this section.

/s/J. Hutchinson