

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

State of Arkansas  
91st General Assembly  
Regular Session, 2017

# A Bill

HOUSE BILL 1918

By: Representative Walker

## For An Act To Be Entitled

AN ACT CONCERNING PAROLE ELIGIBILITY FOR A PERSON  
SERVING A LIFE SENTENCE OR A SENTENCE IN EXCESS OF  
FORTY-FIVE YEARS; AND FOR OTHER PURPOSES.

### Subtitle

CONCERNING PAROLE ELIGIBILITY FOR A  
PERSON SERVING A LIFE SENTENCE OR A  
SENTENCE IN EXCESS OF FORTY-FIVE YEARS.

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

SECTION 1. DO NOT CODIFY. Legislative intent.

It is the intent of the General Assembly that this act be retroactive concerning an offense committed before the effective date of this act.

SECTION 2. Arkansas Code § 5-4-501(c)(1), concerning sentencing and parole eligibility for a habitual offender, is amended to read as follows:

(c)(1) Except as otherwise provided for by law and as provided in subdivision (c)(3) of this section, a defendant who is convicted of a serious felony involving violence enumerated in subdivision (c)(2) of this section and who previously has been convicted of one (1) or more of the serious felonies involving violence enumerated in subdivision (c)(2) of this section may be sentenced to pay any fine authorized by law for the serious felony involving violence conviction and shall be sentenced:

(A) To imprisonment for a term of not less than forty (40) years nor more than eighty (80) years, or life; and

(B) Without eligibility for parole or community correction



transfer except:

(i) For a defendant sentenced to more than forty-five (45) years who is eligible for release on parole under § 16-93-621; or

(ii) ~~under~~ Under § 16-93-615.

SECTION 3. The introductory language of Arkansas Code § 5-4-501(d)(1), concerning sentencing and parole eligibility for a habitual offender, is amended to read as follows:

(d)(1) A Except as otherwise provided for by law and unless this subsection provides for a shorter period of time before the defendant is eligible for parole, a defendant who is convicted of a felony involving violence enumerated in subdivision (d)(2) of this section and who previously has been convicted of two (2) or more of the felonies involving violence enumerated in subdivision (d)(2) of this section may be sentenced to pay any fine authorized by law for the felony involving violence conviction and shall be sentenced to an extended term of imprisonment without eligibility for parole or community correction transfer except for a defendant sentenced to more than forty-five (45) years who is eligible for release on parole under § 16-93-621 or under § 16-93-615 as follows:

SECTION 4. Arkansas Code § 16-93-601 is amended to read as follows:

16-93-601. Felonies committed prior to April 1, 1977.

(a) Death Sentence. ~~An individual~~ A person under sentence of death is not eligible for release on parole.

(b) Life Imprisonment.

(1) ~~An individual~~ A person sentenced to life imprisonment prior to March 1, 1968, and any ~~individual~~ person sentenced to life imprisonment after February 12, 1969, and before April 1, 1977, is ~~not~~ eligible for release on parole ~~unless the sentence is commuted to a term of years by executive clemency under § 16-93-621~~. When the life sentence is commuted to a term of years, the ~~individual~~ person is eligible for release on parole after having served one-third (1/3) of the time to which the life sentence is commuted, with credit for good-time allowances.

(2) ~~An individual~~ A person sentenced to life imprisonment on and after March 1, 1968, and prior to February 12, 1969, is eligible for release on parole ~~after he or she serves fifteen (15) years of the sentence, with~~

~~credit for good time allowances not to exceed five (5) years under § 16-93-621.~~

(c) Sentence of Years. ~~An individual~~ Except for a person who was sentenced to more than forty-five (45) years, a person sentenced to a term of years in the Department of Correction after February 11, 1976, and before April 1, 1977, is eligible for release on parole after he or she serves the following terms:

(1) ~~An individual~~ A person sentenced to a term of years for other than a Class Y felony who is confined in the department for the second time is eligible for release on parole after he or she serves one-third (1/3) of the time for which sentenced, with credit for good-time allowances, or one-third (1/3) of the time to which the sentence is commuted by executive clemency, with credit for good-time allowances. However, a judge may require one-half ( $\frac{1}{2}$ ) of the sentence as imposed, or one-half ( $\frac{1}{2}$ ) of the sentence as commuted by executive clemency, to be served, with credit for good-time allowances; and

(2) ~~An individual~~ A person sentenced to a term of years who is confined in the department and who pleads guilty to or is convicted of a Class Y felony or who has previously been confined in the department two (2) or more times is eligible for release on parole after he or she serves one-half ( $\frac{1}{2}$ ) of the time to which the sentence is commuted by executive clemency, with credit for good-time allowances.

(d) Notwithstanding the provisions of subsections (a)-(c) of this section, the court may require ~~anyone~~ a person convicted of a crime involving the use of a deadly weapon to serve one-half ( $\frac{1}{2}$ ) of the time for which sentenced, with credit for good-time allowances.

(e) A person sentenced to more than forty-five (45) years is eligible for release on parole under § 16-93-621.

SECTION 5. Arkansas Code § 16-93-604(a), concerning parole eligibility, is amended to read as follows:

(a) A Unless otherwise provided for by law, a person who committed felonies prior to April 1, 1977, and who was convicted and incarcerated therefor, is eligible for release on parole in accordance with the parole eligibility law in effect at the time the crime was committed.

SECTION 6. Arkansas Code § 16-93-604(b), concerning parole eligibility for an offense committed between April 1, 1977, and April 1, 1983, is amended to read as follows:

(b) A person who committed felonies on and after April 1, 1977, and prior to April 1, 1983, and who has been convicted and incarcerated therefor, is eligible for release on parole as follows:

(1)(A) ~~An inmate~~ A person under sentence of death or life imprisonment without parole is not eligible for release on parole but may be pardoned or have his or her sentence commuted by the Governor, as provided by law.

(B) ~~An inmate~~ A person sentenced to life imprisonment is ~~not~~ eligible for release on parole ~~unless the sentence is commuted to a term of years by executive clemency under § 16-93-621.~~

(C) Upon commutation, the ~~inmate~~ person is eligible for release on parole as provided in this section;

(2)(A) ~~An inmate~~ Except for a person who was sentenced to more than forty-five (45) years and unless this subsection provides for a shorter period of time before the person is eligible for parole, a person classified as a first offender under § 16-93-603, ~~except one~~ a person under twenty-one (21) years of age as described in subsection (c) of this section and ~~except one~~ a person who pleads guilty to or has been convicted of a Class Y felony, upon entering a correctional institution in this state under sentence from a circuit court is not eligible for release on parole until a minimum of one-third (1/3) of his or her sentence has been served, with credit for good-time allowances, or one-third (1/3) of the time to which the sentence is commuted by executive clemency is served, with credit for good-time allowances.

(B) However, if the trier of fact determines that a deadly weapon was used in the commission of the crime, a first offender twenty-one (21) years of age or older shall not be eligible for release on parole until a minimum of one-half ( $\frac{1}{2}$ ) of the sentence is served, with credit for good-time allowances;

(3) ~~An inmate~~ Except for a person who was sentenced to more than forty-five (45) years and unless this subsection provides for a shorter period of time before the person is eligible for parole, a person classified as a second offender under § 16-93-603 and ~~one~~ a person who pleads guilty to or is convicted of a Class Y felony, upon entering a correctional institution

in this state under sentence from a circuit court, is not eligible for release on parole until a minimum of one-half ( $\frac{1}{2}$ ) of his or her sentence is served, with credit for good-time allowances, or one-half ( $\frac{1}{2}$ ) of the time to which the sentence is commuted by executive clemency, with credit for good-time allowances;

(4) ~~An inmate~~ Except for a person who was sentenced to more than forty-five (45) years and unless this subsection provides for a shorter period of time before the person is eligible for parole, a person classified as a third offender under § 16-93-603, upon entering a correctional institution in this state under sentence from a circuit court, is not eligible for release on parole until a minimum of three-fourths ( $\frac{3}{4}$ ) of his or her sentence is served, with credit for good-time allowances, or three-fourths ( $\frac{3}{4}$ ) of the time to which the sentence is commuted by executive clemency, with credit for good-time allowances; ~~and~~

(5) ~~An inmate~~ Except for a person who was sentenced to more than forty-five (45) years, a person classified as a fourth offender under § 16-93-603, upon entering a correctional institution in this state under sentence from a circuit court, is not eligible for parole, but is entitled to good-time allowances as provided by law; and

(6) A person sentenced to more than forty-five (45) years is eligible for release on parole under § 16-93-621.

SECTION 7. Arkansas Code § 16-93-607(b), concerning parole eligibility, is amended to read as follows:

(b) A Unless otherwise provided for by law, a person who committed a felony prior to April 1, 1983, and who was convicted and incarcerated for that felony, shall be eligible for release on parole in accordance with the parole eligibility law in effect at the time the crime was committed.

SECTION 8. Arkansas Code § 16-93-607(c), concerning parole eligibility for an offense committed on or after April 1, 1983, but before January 1, 1994, is amended to read as follows:

(c) A person who commits felonies on or after April 1, 1983, and who ~~shall be~~ is convicted and incarcerated for that felony, ~~shall be~~ is eligible for release on parole as follows:

(1)(A) ~~An inmate~~ A person under sentence of death or life

imprisonment without parole is not eligible for release on parole but may be pardoned or have his or her sentence commuted by the Governor, as provided by law.

~~(B) An inmate~~ A person sentenced to life imprisonment is ~~not~~ eligible for release on parole ~~unless the sentence is commuted to a term of years by executive clemency under § 16-93-621~~. Upon commutation, the ~~inmate~~ person is eligible for release on parole as provided in this section;

(2)(A) ~~An inmate~~ Except for a person who was sentenced to more than forty-five (45) years and unless this subsection provides for a shorter period of time before the person is eligible for parole, a person classified as a first offender under § 16-93-606, ~~except one~~ a person under twenty-one (21) years of age as described in subsection (d) of this section and ~~except one~~ a person who pleads guilty or has been convicted of a Class Y felony, upon entering a correctional institution in this state under sentence from a circuit court, is not eligible for release on parole until a minimum of one-third (1/3) of the time to which the sentence is commuted by executive clemency is served, with credit for good-time allowances.

~~(B)~~ However, if the trier of fact determines that a deadly weapon was used in the commission of the crime, a first offender twenty-one (21) years of age or older is not eligible for release on parole until a minimum of one-half (½) of the sentence is served, with credit for good-time allowances;

(3) ~~An inmate~~ Except for a person who was sentenced to more than forty-five (45) years and unless this subsection provides for a shorter period of time before the person is eligible for parole, a person classified as a second offender under § 16-93-606 ~~and one~~ or a person who pleads guilty or was convicted of a Class Y felony, upon entering a correctional institution in this state under sentence from a circuit court, ~~are~~ is not eligible for release on parole until a minimum of one-half (½) of his or her sentence ~~shall have~~ has been served, with credit for good-time allowances, or one-half (½) of the time to which the sentence is commuted by executive clemency is served, with credit for good-time allowances;

(4) ~~An inmate~~ Except for a person who was sentenced to more than forty-five (45) years and unless this subsection provides for a shorter period of time before the person is eligible for parole, a person classified as a third offender under § 16-93-606, upon entering a correctional

institution in this state under sentence from a circuit court, is not eligible for release on parole until a minimum of three-fourths ( $\frac{3}{4}$ ) of his or her sentence ~~shall have~~ has been served, with credit for good-time allowances, or three-fourths ( $\frac{3}{4}$ ) of the time to which the sentence is commuted by executive clemency ~~shall have~~ has been served, with credit for good-time allowances; ~~and~~

(5) ~~An inmate~~ Except for a person who was sentenced to more than forty-five (45) years, a person classified as a fourth offender under § 16-93-606, upon entering a correctional institution in this state under sentence from a circuit court, is not eligible for parole, but he or she shall be entitled to good-time allowances as provided by law; ~~and~~

(6) A person sentenced to more than forty-five (45) years is eligible for release on parole under § 16-93-621.

SECTION 9. Arkansas Code § 16-93-612 is amended to read as follows:  
16-93-612. Parole eligibility – Date of offense.

(a) ~~A~~ Unless otherwise provided for by law, a person's parole eligibility shall be determined by the laws in effect at the time of the offense for which he or she is sentenced to the Department of Correction.

(b) ~~For an offender~~ a person serving a sentence for a felony committed before April 1, 1977, except for an offense that resulted in a life sentence or a sentence of more than forty-five (45) years, § 16-93-601 governs that person's parole eligibility.

(c) ~~For an offender~~ a person serving a sentence for a felony committed between April 1, 1977, and April 1, 1983, except for an offense that resulted in a life sentence or a sentence of more than forty-five (45) years, § 16-93-604 governs that person's parole eligibility.

(d) ~~For an offender~~ a person serving a sentence for a felony committed on or after April 1, 1983, but before January 1, 1994, except for an offense that resulted in a life sentence or a sentence of more than forty-five (45) years, § 16-93-607 governs that person's parole eligibility.

(e) ~~For an offender~~ a person serving a sentence for a felony committed on or after January 1, 1994, except for an offense that resulted in a life sentence or a sentence of more than forty-five (45) years, § 16-93-614 governs that person's parole eligibility, unless otherwise noted and except:

(1) If the felony is murder in the first degree, § 5-10-102,

kidnapping, if a Class Y felony, § 5-11-102(b)(1), aggravated robbery, § 5-12-103, rape, § 5-14-103, or causing a catastrophe, § 5-38-202(a), and the offense occurred after July 28, 1995, § 16-93-618 governs that person's parole eligibility;

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

(3) If the felony is battery in the second degree, § 5-13-202, aggravated assault, § 5-13-204, terroristic threatening, § 5-13-301, domestic battering in the second degree, § 5-26-304, or residential burglary, § 5-39-201, and the offense occurred on or after April 1, 2015, § 16-93-620 governs that person's parole eligibility.

(f) For a person serving a life sentence or a sentence of more than forty-five (45) years for any offense and unless this subsection provides for a shorter period of time before the person is eligible for parole, § 16-93-621 governs that person's parole eligibility.

~~(f)(g)~~ For ~~an offender~~ a person serving a sentence for a felony committed on or after January 1, 1994, § 16-93-615 governs that person's parole eligibility procedures.

SECTION 10. Arkansas Code § 16-93-614(b)(1), concerning parole eligibility for an offense committed before January 1, 1994, is amended to read as follows:

(b)(1) A Unless otherwise provided for by law, a person who committed a felony before January 1, 1994, and who was convicted and incarcerated for that felony shall be eligible for release on parole under this section and §§ 16-93-615 – 16-93-617 in accordance with the parole eligibility law in effect at the time the crime was committed.

SECTION 11. Arkansas Code § 16-93-614(c)(1)(B), concerning parole eligibility for an offense resulting in a life sentence committed after January 1, 1994, is amended to read as follows:

(B) ~~An inmate~~ A person sentenced to life imprisonment ~~shall not be eligible for transfer unless his or her sentence is commuted to~~

~~a term of years by executive clemency under § 16-93-621.~~

SECTION 12. Arkansas Code § 16-93-614(c)(3), concerning transfer eligibility for a person convicted of certain felonies, is amended to read as follows:

(3)(A) ~~Every~~ Except for a person who was sentenced to more than forty-five (45) years and unless this subsection provides for a shorter period of time before the person is eligible for parole, every other classified or unclassified ~~felon~~ person who is incarcerated therefor shall be eligible for transfer to community correction after having served one-third (1/3) or one-half ( $\frac{1}{2}$ ), with credit for meritorious good time, of his or her sentence depending on the seriousness determination made by the Arkansas Sentencing Commission, or one-half ( $\frac{1}{2}$ ), with credit for meritorious good time, of the time to which his or her sentence is commuted by executive clemency.

(B) For example, a six-year sentence with optimal meritorious good-time credits will make the ~~offender~~ person eligible for transfer in one (1) year if he or she is required to serve one-third (1/3) of his or her sentence, or one and one-half ( $1\frac{1}{2}$ ) years if he or she is required to serve one-half ( $\frac{1}{2}$ ) of his or her sentence.

(4) A person sentenced to more than forty-five (45) years is eligible for release on parole under § 16-93-621.

SECTION 13. Arkansas Code § 16-93-615(a) and the introductory language of § 16-93-615(b)(1), concerning parole eligibility for an offense after January 1, 1994, are amended to read as follows:

16-93-615. Parole eligibility procedures – Offenses committed after January 1, 1994.

(a)(1)(A) ~~An inmate~~ Except as otherwise provided for by law, a person under sentence for any felony, except those listed in subsection (b) of this section, shall be transferred from the Department of Correction to the Department of Community Correction under this section and §§ 16-93-614, 16-93-616, ~~and~~ 16-93-617, and 16-93-621 subject to rules promulgated by the Board of Corrections or the Parole Board and conditions adopted by the Parole Board.

(B) The determination under subdivision (a)(1)(A) of this

section shall be made by reviewing information such as the result of the risk-needs assessment to inform the decision of whether to release a person on parole by quantifying that person's risk to reoffend, and if parole is granted, this information shall be used to set conditions for supervision.

(C) The Parole Board shall begin transfer release proceedings or a preliminary review under this subchapter no later than six (6) months before a person's transfer eligibility date, and the Parole Board shall authorize jacket review procedures no later than six (6) months before a person's transfer eligibility at all institutions holding parole-eligible ~~inmates~~ persons to prepare parole applications.

(D) ~~This review~~ The review under subdivision (a)(1)(C) of this section may be conducted without a hearing when the ~~inmate~~ person has not received a major disciplinary report against him or her that resulted in the loss of meritorious good time, there has not been a request by a victim to have input on transfer conditions, and there is no indication in the risk-needs assessment review that special conditions need to be placed on the ~~inmate~~ person.

(2)(A) When one (1) or more of the circumstances in subdivision (a)(1) of this section are present, the Parole Board shall conduct a hearing to determine the appropriateness of the ~~inmate~~ person for transfer.

(B) The Parole Board has two (2) options:

(i) To transfer the ~~individual~~ person to the Department of Community Correction accompanied by notice of conditions of the transfer, including without limitation:

- (a) Supervision levels;
- (b) Economic fee sanction;
- (c) Treatment program;
- (d) Programming requirements; and
- (e) Facility placement when appropriate; or

(ii) To deny transfer based on a set of established criteria and to accompany the denial with a prescribed course of action to be undertaken by the ~~inmate~~ person to rectify the Parole Board's concerns.

(C) Upon completion of the course of action determined by the Parole Board and after final review of the ~~inmate's~~ person's file to ensure successful completion, the Parole Board shall authorize the ~~inmate's~~ person's transfer to the Department of Community Correction under this

section and §§ 16-93-614, 16-93-616, ~~and 16-93-617~~, and 16-93-621 in accordance with administrative policies and procedures governing the transfer and subject to conditions attached to the transfer.

(3) Should ~~an inmate~~ a person fail to fulfill the course of action outlined by the Parole Board to facilitate transfer to community correction, it shall be the responsibility of the ~~inmate~~ person to petition the Parole Board for rehearing.

(4)(A) The Parole Board shall conduct open meetings and shall make public its findings for each eligible candidate for parole.

(B)(i) Open meetings held under subdivision (a)(2)(A) of this section may be conducted through video-conference technology if the person is housed at that time in a county jail and if the technology is available.

(ii) Open meetings utilizing video-conference technology shall be conducted in public.

(5) ~~Inmate interviews~~ Interviews of the person and related deliberations may be closed to the public.

(b)(1) ~~An inmate~~ Unless otherwise provided for by law, a person under sentence for one (1) of the following felonies is eligible for discretionary transfer to the Department of Community Correction by the Parole Board after having served one-third (1/3) or one-half ( $\frac{1}{2}$ ) of his or her sentence, with credit for meritorious good time, depending on the seriousness determination made by the Arkansas Sentencing Commission, or one-half ( $\frac{1}{2}$ ) of the time to which his or her sentence is commuted by executive clemency, with credit for meritorious good time:

SECTION 14. Arkansas Code § 16-93-615(b), parole eligibility for an offense after January 1, 1994, is amended to add an additional subdivision to read as follows:

(7) Unless this subsection provides for a shorter period of time before the person is eligible for parole, a person sentenced to more than forty-five (45) years is eligible for release on parole under § 16-93-621.

SECTION 15. Arkansas Code § 16-93-615(h), concerning parole eligibility for an offense resulting in a life sentence committed after January 1, 1994, is amended to read as follows:

(h) ~~An inmate~~ Except as otherwise provided by law, a person who is sentenced under the provisions of § 5-4-501(c) or § 5-4-501(d) for a serious violent felony or a felony involving violence may be considered eligible for parole or for community correction transfer upon reaching regular parole or transfer eligibility, but only after reaching a minimum age of fifty-five (55) years.

SECTION 16. Arkansas Code § 16-93-617 is amended to read as follows:

16-93-617. Parole eligibility procedures – Offenses committed after January 1, 1994 – Revocation of transfer.

(a) In the event ~~an offender~~ a person transferred under this section, §§ 16-93-614 – 16-93-616, ~~or § 16-93-618, or 16-93-621~~ violates the terms or conditions of his or her transfer, a hearing shall follow all applicable legal requirements and shall be subject to any additional policies, rules, ~~and regulations~~ set by the Parole Board.

(b)(1) In the event ~~an offender~~ a person transferred under this section and §§ 16-93-614 – 16-93-616, ~~or § 16-93-618, or 16-93-621~~ is found to be or becomes ineligible for transfer into a Department of Community Correction facility, he or she shall be transported to the Department of Correction to serve the remainder of his or her sentence.

(2) Notice of the ineligibility and the reasons therefor shall be provided to the ~~offender~~ person, and a hearing may be requested before the board if the ~~offender~~ person contests the factual basis of the ineligibility. Otherwise, the board may administratively approve the transfer to the Department of Correction.

(c) ~~An offender~~ A person who is judicially transferred to a Department of Community Correction facility and subsequently transferred back to the Department of Correction by the board for disciplinary or administrative reasons may not become eligible for any further transfer under § 16-93-614(c)(2)(E) and (F).

SECTION 17. The introductory language of Arkansas Code § 16-93-618(a)(1), concerning parole eligibility for seventy-percent crimes, is amended to read as follows:

(a)(1) ~~Notwithstanding~~ Except as otherwise provided for by law and notwithstanding any law allowing the award of meritorious good time or any

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

SECTION 18. Arkansas Code § 16-93-618, concerning parole eligibility for seventy-percent crimes, is amended to add an additional subsection to read as follows:

(f) Unless this section provides for a shorter period of time before the person is eligible for parole, a person sentenced to more than forty-five (45) years is eligible for release on parole under § 16-93-621.

SECTION 19. Arkansas Code Title 16, Chapter 93, Subchapter 6, is amended to add an additional section to read as follows:

16-93-621. Parole or transfer eligibility for a person serving a life sentence or a sentence in excess of forty-five years.

When in the opinion of the Parole Board there is reasonable probability that a person serving a life sentence or a sentence in excess of forty-five (45) years may be released without detriment to the community or to the person, and after the person serves a minimum of ten (10) years of his or her sentence, the board may place the person on parole, subject to normal parole procedures, except as otherwise prohibited by law.