

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

SENATE BILL 516

By: Senator G. Stubblefield

For An Act To Be Entitled

AN ACT AMENDING THE SENTENCING RANGE FOR MURDER IN THE FIRST DEGREE AND CONSPIRACY TO COMMIT CAPITAL MURDER AND MURDER IN THE FIRST DEGREE; CONCERNING THE REOPENING OF UNSOLVED MURDER CASES; REQUIRING BAIL OF AT LEAST ONE MILLION DOLLARS (\$1,000,000) WHEN CAPITAL MURDER CHARGES ARE BROUGHT; CONCERNING PAROLE FOR MURDER CONVICTIONS; AND FOR OTHER PURPOSES.

Subtitle

AMENDING THE SENTENCING RANGE FOR CERTAIN MURDER CONVICTIONS; CONCERNING THE REOPENING OF UNSOLVED MURDER CASES; CONCERNING A MINIMUM BAIL IN A MURDER CASE; AND CONCERNING PAROLE FOR MURDER CONVICTIONS.

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

SECTION 1. Arkansas Code § 5-3-404 is amended to read as follows:

5-3-404. Classification.

Criminal conspiracy is a:

(1) Class A felony if an object of the conspiracy is commission of ~~capital murder~~ murder in the first degree, § 5-10-102, treason, § 5-51-201, or a Class Y felony, unless the Class Y felony is capital murder, § 5-10-101, in which case the criminal conspiracy is an unclassified felony with a sentencing range of at least twenty-five (25) years but no more than life;

(2) Class B felony if an object of the conspiracy is commission



of a Class A felony;

(3) Class C felony if an object of the conspiracy is commission of a Class B felony;

(4) Class D felony if an object of the conspiracy is commission of a Class C felony;

(5) Class A misdemeanor if an object of the conspiracy is commission of a Class D felony or an unclassified felony;

(6) Class B misdemeanor if an object of the conspiracy is commission of a Class A misdemeanor; or

(7) Class C misdemeanor if an object of the conspiracy is commission of a Class B misdemeanor.

SECTION 2. Arkansas Code § 5-10-102(c), concerning the sentencing range for murder in the first degree, is amended to read as follows:

(c) Murder in the first degree is ~~a Class Y~~ an unclassified felony, with a sentencing range of at least twenty-five (25) years but no more than life.

SECTION 3. Arkansas Code Title 12, Chapter 12, Subchapter 1, is amended to add a new section to read as follows:

12-12-110. Investigations of unsolved murder cases.

A law enforcement agency having jurisdiction of a murder case that has been closed for lack of evidence shall reopen the case no later than fifteen (15) years after either the offense was thought to have occurred or after the case was closed, whichever is later, and shall reexamine the entirety of the case, including a review of all evidence and, if applicable, questioning all suspects and witnesses, with the intent to solve the murder.

SECTION 4. Arkansas Code Title 16, Chapter 84, Subchapter 1, is amended to add a new section to read as follows:

16-84-117. Bail in cases concerning capital murder or murder in the first degree.

Notwithstanding the requirements of Rule 9 of the Arkansas Rules of Criminal Procedure, a judicial officer shall set bail for a person accused of capital murder, § 5-10-101, murder in the first degree, § 5-10-102, or conspiracy to commit capital murder, § 5-10-101, or murder in the first

degree, § 5-10-102, at an amount of not less than one million dollars (\$1,000,000).

SECTION 5. Arkansas Code § 16-93-612 is amended to read as follows:
 16-93-612. Parole eligibility – Date of offense.

(a) 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~~

(b) For a person serving a sentence for a felony committed:

(1) before Before April 1, 1977, § 16-93-601 governs that person’s parole eligibility;

~~(e)(2) For an offender serving a sentence for a felony committed between On or after~~ April 1, 1977, and but before April 1, 1983, § 16-93-604 governs that person’s parole eligibility;

~~(d)(3) For an offender serving a sentence for a felony committed on~~ On or after April 1, 1983, but before January 1, 1994, § 16-93-607 governs that person’s parole eligibility; and

~~(e)(4) For an offender serving a sentence for a felony committed on~~ On or after January 1, 1994;

(A) § Section 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(e)(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, §~~

~~16-93-619 governs that person's parole eligibility.~~

~~(f) For an offender serving a sentence for a felony committed on or after January 1, 1994, §~~

(i) Section 16-93-618 governs that person's parole eligibility if the felony occurred:

(a) After July 28, 1995, and is:

(1) Murder in the first degree, § 5-10-102;

(2) Kidnapping, § 5-11-102, if a Class Y felony;

(3) Aggravated robbery, § 5-12-103;

(4) Rape, § 5-14-103; or

(5) Causing a catastrophe, § 5-38-202(a); or

(b) After the effective date of this act and is conspiracy to commit capital murder, § 5-10-101, or murder in the first degree, § 5-10-102;

(ii) Section 16-93-618 governs that person's parole eligibility date if the felony occurred after April 9, 1999, and is:

(a) Manufacturing methamphetamine, § 5-64-423(a) or the former § 5-64-401; or

(b) Possession of drug paraphernalia with the intent to manufacture methamphetamine, the former § 5-64-403(c)(5); or

(iii) Section 16-93-620 governs that person's parole eligibility date if the felony occurred on or after April 1, 2015, and is:

(a) Battery in the second degree, § 5-13-202;

(b) Aggravated assault, § 5-13-204;

(c) Terroristic threatening, § 5-13-301;

(d) Domestic battering in the second degree, § 5-26-304; or

(e) Residential burglary, § 5-39-201; and

(B) Section 16-93-615 governs that person's parole eligibility procedures.

SECTION 6. Arkansas Code § 16-93-618 is amended to read as follows:
16-93-618. Parole eligibility – Certain Class Y felony offenses and

certain methamphetamine offenses – Seventy-percent crimes.

(a)(1) 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)~~(a)(4) 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:

(A) Murder in the first degree, § 5-10-102, if committed before the effective date of this act;

(B) Kidnapping, Class Y felony, § 5-11-102;

(C) Aggravated robbery, § 5-12-103;

(D) Rape, § 5-14-103;

(E) Trafficking of persons, Class Y felony, § 5-18-103;

(F) Causing a catastrophe, § 5-38-202(a);

(G) Manufacturing methamphetamine, § 5-64-423(a) or the former § 5-64-401;

(H) Trafficking methamphetamine, § 5-64-440(b)(1); or

(I) Possession of drug paraphernalia with the purpose to manufacture methamphetamine, the former § 5-64-403(c)(5).

(2) 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 murder in the first degree, § 5-10-102, or conspiracy to commit capital murder, § 5-10-101, or murder in the first degree, § 5-10-102, committed after the effective date of this act is not eligible for parole or community correction transfer, except as provided in subdivision (a)(4) of this section or subsection (c) of this section, until the person serves at least twenty-five (25) years in prison or seventy percent (70%) of the term of imprisonment to which the person is sentenced, whichever is longer, including a sentence prescribed under § 5-4-501.

~~(2)(A)(3)(A)~~ The seventy-percent provision of subdivision (a)(1) of this section has no application to any person who is found guilty of or pleads guilty or nolo contendere to kidnapping, Class B felony, § 5-11-102, regardless of the date of the offense.

(B) The provisions of this section shall apply

retroactively to all persons presently serving a sentence for kidnapping, Class B felony, § 5-11-102.

~~(3)(A)(i)~~(4)(A)(i) Regardless of the date of the offense, the seventy-percent provision under subdivision (a)(1) of this section shall include credit for the award of meritorious good time under § 12-29-201 to any person who is found guilty of or pleads guilty or nolo contendere to:

(a) Manufacturing methamphetamine, § 5-64-423(a) or the former § 5-64-401;

(b) Trafficking methamphetamine, § 5-64-440(b)(1); or

(c) Possession of drug paraphernalia with the purpose to manufacture methamphetamine, the former § 5-64-403(c)(5).

(ii) Regardless of the date of the offense and unless the person is sentenced to a term of life imprisonment, the seventy-percent provision under subdivision (a)(1) of this section may include credit for the award of meritorious good time under § 12-29-202 to any person who is found guilty of or pleads guilty or nolo contendere to:

(a) Manufacturing methamphetamine, § 5-64-423(a) or the former § 5-64-401;

(b) Trafficking methamphetamine, § 5-64-440(b)(1); or

(c) Possession of drug paraphernalia with the purpose to manufacture methamphetamine, the former § 5-64-403(c)(5).

(B) In no event shall the time served by any person who is found guilty of or pleads guilty or nolo contendere to manufacturing methamphetamine, § 5-64-423(a) or the former § 5-64-401, trafficking methamphetamine, § 5-64-440(b)(1), or possession of drug paraphernalia with the purpose to manufacture methamphetamine, § 5-64-443(a)(2), be reduced to less than fifty percent (50%) of the person's original sentence.

~~(4)(A)(5)(A)~~ When any person sentenced under subdivision ~~(a)(3)(a)(4)~~ of this section becomes eligible for parole, the Department of Community Correction shall send a notice of the parole hearing to the prosecuting attorney of the judicial district or districts in which the person was found guilty or pleaded guilty or nolo contendere to an offense listed in subdivision (a)(1) of this section.

(B) The notice shall contain the following language in 12-

point capital letters, bold type: "INMATE SENTENCED UNDER ARKANSAS CODE § 16-93-618".

(b) A jury may be instructed under § 16-97-103 regarding the awarding of meritorious good time under subdivision ~~(a)(3)~~(a)(4) of this section.

(c) The sentencing judge, in his or her discretion, may waive subsection (a) of this section under the following circumstances:

- (1) The defendant was a juvenile at the time of the offense;
- (2) The juvenile was merely an accomplice to the offense; and
- (3) The offense occurred on or after July 28, 1995, except for murder in the first degree, § 5-10-102, conspiracy to commit capital murder, § 5-10-101, or conspiracy to commit murder in the first degree, § 5-10-102, if the offense occurred after the effective date of this act.

(d) The awarding of meritorious good time under § 12-29-201 or § 12-29-202 does not apply to persons sentenced under subdivisions (a)(1)(A)-(E) of this section or subdivision (a)(2) of this section.

(e) A person who commits the offense of possession of drug paraphernalia with the purpose to manufacture methamphetamine, § 5-64-443, after July 27, 2011, shall not be subject to the provisions of this section.