

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

State of Arkansas  
94th General Assembly  
Regular Session, 2023

# A Bill

SENATE BILL 579

By: Senator G. Leding

## For An Act To Be Entitled

AN ACT CONCERNING THE SENTENCING OF A PERSON WHO  
COMMITTED AN OFFENSE BEFORE HE OR SHE TURNED TWENTY-  
ONE (21) YEARS OF AGE; AND FOR OTHER PURPOSES.

## Subtitle

CONCERNING THE SENTENCING OF A PERSON WHO  
COMMITTED AN OFFENSE BEFORE HE OR SHE  
TURNED TWENTY-ONE (21) YEARS OF AGE.

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

SECTION 1. Arkansas Code § 5-4-104(b), concerning authorized sentences, is amended to read as follows:

(b) A defendant convicted of capital murder, § 5-10-101, or treason, § 5-51-201, shall be sentenced to death or life imprisonment without parole in accordance with §§ 5-4-601 – 5-4-605, 5-4-607, and 5-4-608, except if the defendant was younger than ~~eighteen (18)~~ twenty-one (21) years of age at the time he or she committed the capital murder or treason he or she shall be sentenced to life imprisonment with the possibility of parole after serving a minimum of thirty (30) years' imprisonment.

SECTION 2. Arkansas Code § 5-4-108 is amended to read as follows:

5-4-108. Sentencing for person who committed an offense when he or she was less than ~~18~~ 21 years of age.

A defendant shall not be sentenced to death or life imprisonment without the possibility of parole for an offense if the defendant was less than ~~eighteen (18)~~ twenty-one (21) years of age at the time the offense was



committed.

SECTION 3. Arkansas Code § 5-4-602(3)(C), concerning trial procedure for a capital felony charge, is amended to read as follows:

(C) If the defendant was less than ~~eighteen (18)~~ twenty-one (21) years of age at the time of the offense, then a hearing under subdivision (3)(A) of this section is not required;

SECTION 4. Arkansas Code § 5-10-101(c)(1), concerning capital murder, is amended to read as follows:

(c)(1) Capital murder is punishable as follows:

(A) If the defendant was ~~eighteen (18)~~ twenty-one (21) years of age or older at the time he or she committed the capital murder:

(i) Death; or

(ii) Life imprisonment without parole under §§ 5-4-601 – 5-4-605, 5-4-607, and 5-4-608; or

(B) If the defendant was younger than ~~eighteen (18)~~ twenty-one (21) years of age at the time he or she committed the capital murder, life imprisonment with the possibility of parole after serving a minimum of thirty (30) years' imprisonment.

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

(2) Unless the application of § 16-93-621 results in a person's being eligible for parole at an earlier date, if a person was younger than ~~eighteen (18)~~ twenty-one (21) years of age at the time he or she committed murder in the first degree and is sentenced to life imprisonment, the person is eligible for parole after serving a minimum of twenty-five (25) years' imprisonment.

SECTION 6. Arkansas Code § 16-93-612(e)(4), concerning the date of offense for parole eligibility, is amended to read as follows:

(4) If the felony was committed by a person who was ~~a minor~~ younger than twenty-one (21) years of age at the time of the offense, he or she was committed to the Department of Correction, or to the division, and the offense occurred before, on, or after ~~March 20, 2017~~ the effective date

of this act, § 16-93-621 governs that person's parole eligibility.

SECTION 7. Arkansas Code § 16-93-613(c), concerning parole eligibility for Class Y, Class A, and Class B felonies, is amended to read as follows:

(c) Except as provided for under § 16-93-621, for an offense committed before, on, or after ~~March 20, 2017~~ the effective date of this act, a person who was ~~a minor~~ younger than twenty-one (21) years of age at the time of committing an offense listed under subsection (a) of this section is eligible for release on parole under this section.

SECTION 8. Arkansas Code § 16-93-614(d), concerning parole eligibility for offenses committed after January 1, 1994, is amended to read as follows:

(d) Except as provided for under § 16-93-621, for an offense committed before, on, or after ~~March 20, 2017~~ the effective date of this act, a person who was ~~a minor~~ younger than twenty-one (21) years of age at the time of committing an offense listed under subsection (c) of this section is eligible for release on parole under this section.

SECTION 9. Arkansas Code § 16-93-618(f), concerning parole eligibility for certain Class Y felony offenses and certain methamphetamine offenses and the serving of seventy percent 70% of a person's sentence, is amended to read as follows:

(f) Except as provided for under § 16-93-621, for an offense committed before, on, or after ~~March 20, 2017~~ the effective date of this act, a person who was ~~a minor~~ younger than twenty-one (21) years of age at the time of committing an offense listed under subsection (a) of this section is eligible for release on parole under this section.

SECTION 10. Arkansas Code § 16-93-621 is amended to read as follows:

16-93-621. Parole eligibility – A person who was ~~a minor~~ younger than twenty-one (21) years of age at the time of committing an offense that was committed before, on, or after ~~March 20, 2017~~ the effective date of this act.

(a)(1)(A) A ~~minor~~ person younger than twenty-one (21) years of age who was convicted and sentenced to the former Department of Correction or the Division of Correction for an offense committed before he or she was ~~eighteen~~ (18) twenty-one (21) years of age and in which the death of another person

did not occur is eligible for release on parole no later than after twenty (20) years of incarceration, including any applicable sentencing enhancements, and including an instance in which multiple sentences are to be served consecutively or concurrently, unless by law the ~~minor~~ person younger than twenty-one (21) years of age is eligible for earlier parole eligibility.

(B) Subdivision (a)(1)(A) of this section applies retroactively to ~~a minor~~ a person younger than twenty-one (21) years of age whose offense was committed before he or she was ~~eighteen (18)~~ twenty-one (21) years of age, including ~~a minor~~ a person younger than twenty-one (21) years of age serving a sentence of life, regardless of the original sentences that were imposed.

(2)(A) A ~~minor~~ person younger than twenty-one (21) years of age who was convicted and sentenced to the department or the division for an offense committed before he or she was ~~eighteen (18)~~ twenty-one (21) years of age, in which the death of another person occurred, and that was committed before, on, or after ~~March 20, 2017,~~ the effective date of this act is eligible for release on parole no later than after twenty-five (25) years of incarceration if he or she was convicted of murder in the first degree, § 5-10-102, or no later than after thirty (30) years of incarceration if he or she was convicted of capital murder, § 5-10-101, including any applicable sentencing enhancements, unless by law the ~~minor~~ person younger than twenty-one (21) years of age is eligible for earlier parole eligibility.

(B) Subdivision (a)(2)(A) of this section applies retroactively to ~~a minor~~ a person younger than twenty-one (21) years of age whose offense was committed before he or she was ~~eighteen (18)~~ twenty-one (21) years of age, including ~~minors~~ persons younger than twenty-one (21) years of age serving sentences of life, regardless of the original sentences that were imposed.

(3) Credit for meritorious good time shall not be applied to calculations of time served under this subsection for ~~minors~~ a person younger than twenty-one (21) years of age convicted and sentenced for capital murder, § 5-10-101(c), or when a life sentence is imposed for murder in the first degree, § 5-10-102.

(4) The calculation of the time periods under this subsection shall include any applicable sentence enhancements to which the ~~minor~~ person younger than twenty-one (21) years of age was sentenced that accompany the

sentence for the underlying offense.

(b)(1) The Parole Board shall ensure that a hearing to consider the parole eligibility of a person who was ~~a minor~~ younger than twenty-one (21) years of age at the time of the offense that was committed before, on, or after ~~March 20, 2017,~~ the effective date of this act takes into account how a ~~minor offender~~ an offender younger than twenty-one (21) years of age is different from an adult offender and provides a person who was ~~a minor~~ younger than twenty-one (21) years of age at the time of the offense that was committed before, on, or after ~~March 20, 2017,~~ the effective date of this act with a meaningful opportunity to be released on parole based on demonstrated maturity and rehabilitation.

(2) During a parole eligibility hearing involving a person who was ~~a minor~~ younger than twenty-one (21) years of age at the time of the offense that was committed before, on, or after ~~March 20, 2017,~~ the effective date of this act the board shall take into consideration in addition to other factors required by law to be considered by the board:

- (A) The diminished culpability of ~~minors~~ persons younger than twenty (21) years of age as compared to that of adults;
- (B) The hallmark features of youth;
- (C) Subsequent growth and increased maturity of the person during incarceration;
- (D) Age of the person at the time of the offense;
- (E) Immaturity of the person at the time of the offense;
- (F) The extent of the person's role in the offense and whether and to what extent an adult was involved in the offense;
- (G) The person's family and community circumstances at the time of the offense, including any history of abuse, trauma, and involvement in the child welfare system;
- (H) The person's participation in available rehabilitative and educational programs while in prison, if those programs have been made available, or use of self-study for self-improvement;
- (I) The results of comprehensive mental health evaluations conducted by an adolescent mental health professional licensed in the state at the time of sentencing and at the time the person becomes eligible for parole under this section; and
- (J) Other factors the board deems relevant.

(3) A person eligible for parole under this section may have an attorney present to represent him or her at the parole eligibility hearing.

(c)(1)(A) The board shall notify a victim of the crime before the board reviews parole eligibility under this section for an inmate convicted of the crime and provide information regarding victim input meetings, as well as state and national victim resource information.

(B) If the victim is incapacitated or deceased, the notice under subdivision (c)(1)(A) of this section shall be given to the victim's family.

(C) If the victim is less than eighteen (18) years of age, the notice under subdivision (c)(1)(A) of this section shall be given to the victim's parent or guardian.

(2) Victim notification under this subsection shall include:

(A) The location, date, and time of parole review; and

(B) The name and phone number of the individual to contact for additional information.

SECTION 11. Arkansas Code § 16-93-622 is amended to read as follows:

16-93-622. Parole discharge for offenders who are ~~minors~~ younger than twenty-one (21) years of age – Reinstatement of rights.

(a) The Parole Board may discharge a person from parole if:

(1) The person:

(A) Was released on parole under § 16-93-621 for having committed an offense ~~as a minor~~ before the person was twenty-one (21) years of age; and

(B) Has served at least five (5) years on parole without a violation; and

(2) The prosecuting attorney in the county where the person was originally convicted has consented to the discharge of the person from parole.

(b) Unless otherwise provided by Arkansas Constitution, Amendment 51, a person who has been discharged from parole under subsection (a) of this section shall have his or her constitutional right to vote restored.