

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

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

SENATE BILL 630

By: Senator B. Davis

For An Act To Be Entitled

AN ACT TO REQUIRE ONLY A COURT TO FIX PUNISHMENT IF A DEFENDANT IS CHARGED WITH A FELONY OR MISDEMEANOR; TO AMEND THE LAW CONCERNING BIFURCATED SENTENCING PROCEDURES; TO REQUIRE ONLY A JUDGE TO SENTENCE A DEFENDANT FOR A CHARGE THAT RESULTS IN A CONVICTION; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE ONLY A COURT TO FIX PUNISHMENT IF A DEFENDANT IS CHARGED WITH A FELONY OR MISDEMEANOR; AND TO REQUIRE ONLY A JUDGE TO SENTENCE A DEFENDANT FOR A CHARGE THAT RESULTS IN A CONVICTION.

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

SECTION 1. Arkansas Code § 5-4-103 is amended to read as follows:

5-4-103. Sentencing – Role of jury and court.

(a) ~~If~~ Except in a case in which a defendant is charged with capital murder, § 5-10-101, if a defendant is charged with a felony or misdemeanor and is found guilty of an offense by a jury, the ~~jury~~ court shall fix punishment ~~in a separate proceeding~~ as authorized by this chapter according to § 16-97-101 et seq.

(b) Except as provided by §§ 5-4-601 – 5-4-605, § 5-4-607, and § 5-4-608, the court shall fix punishment as authorized by this chapter in any case in which:



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- (1) The defendant pleads guilty to an offense;
- (2) The defendant's guilt is tried by the court;
- (3) ~~The jury fails to agree on punishment~~ defendant's guilt is tried by a jury;
- (4) The prosecution and the defense agree that the court may fix punishment; or
- (5) A ~~jury~~ sentence is found by the trial court or an appellate court to be in excess of the punishment authorized by law.

(c) It is the intent of this section to require sentencing in non-capital criminal cases be conducted by the court and not by a jury because of the:

- (1) Technical nature of sentencing;
- (2) Public interest in consistent and predictable sentencing for similar offenses;
- (3) Cost of incarceration; and
- (4) Opportunity to address sentencing in a coordinated fashion, which is available when sentencing is conducted by trained judicial officers.

SECTION 2. Arkansas Code § 16-97-101 is amended to read as follows:
16-97-101. Bifurcated sentencing procedures.

The following procedure shall govern jury trials, which include any felony or misdemeanor charges, except in a case in which the defendant is charged with capital murder, § 5-10-101:

(1) The jury shall first hear all evidence relevant to every charge on which a defendant is being tried and shall retire to reach a verdict on each charge;

~~(2)(A) If the defendant is found guilty of one (1) or more charges, the jury shall then hear additional evidence relevant to sentencing on those charges. Evidence introduced in the guilt phase may be considered, but need not be reintroduced at the sentencing phase~~ Following the conclusion of the jury finding of the defendant's guilt or innocence, the court shall discharge the jury and order an applicable conviction.

(B) The court shall then sentence the defendant for a charge that results in a conviction.

(C) In order to sentence the defendant, the court may:

- (i) Consider evidence admitted at the first stage of

the trial; and

(ii) Conduct additional proceedings that are necessary or beneficial in determining an appropriate sentence or other judicial response to the conviction entered by the court;

~~(3) Following the introduction of additional evidence relevant to sentencing, if any, instruction on the law, and argument, the jury shall again retire and determine a sentence within the statutory range;~~

~~(4) The court, in its discretion, may also instruct the jury that counsel may argue as to alternative sentences for which the defendant may qualify. The jury, in its discretion, may make a recommendation as to an alternative sentence. However, this recommendation shall not be binding on the court;~~

~~(5) After a jury finds guilt, the defendant, with the agreement of the prosecution and the consent of the court, may waive jury sentencing, in which case the court shall impose sentence; and~~

~~(6) After a plea of guilty, the defendant, with the agreement of the prosecution and the consent of the court, may shall be sentenced by a jury impaneled for purposes of sentencing only the court.~~

(4) It is the intent of this section to require sentencing in noncapital criminal cases be conducted by the court and not by a jury because of the:

(A) Technical nature of sentencing;

(B) Public interest in consistent and predictable sentencing for similar offenses;

(C) Cost of incarceration; and

(D) Opportunity to address sentencing in a coordinated fashion, which is available when sentencing is conducted by trained judicial officers.