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2 90th General Assembly
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4

As Engrossed: H3/17/15

A Bill

HOUSE BILL 1977

5 By: Representative C. Armstrong
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE SENTENCING OF A CRIMINAL
9 DEFENDANT; CONCERNING ALTERNATIVE SENTENCES;
10 CONCERNING PREADJUDICATION AND POSTADJUDICATION
11 PROBATION PROGRAMS; AND FOR OTHER PURPOSES.
12
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Subtitle

14 CONCERNING THE SENTENCING OF A CRIMINAL
15 DEFENDANT; CONCERNING ALTERNATIVE
16 SENTENCES; AND CONCERNING PREADJUDICATION
17 AND POSTADJUDICATION PROBATION PROGRAMS.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 *SECTION 1. Arkansas Code § 5-4-303(c)-(e), concerning the terms and*
24 *conditions of a defendant's probation or suspended imposition of sentence, is*
25 *amended to read as follows:*

26 *(c) If the court suspends imposition of sentence on a defendant or*
27 *places him or her on probation, as a condition of its order the court may*
28 *require that the defendant:*

29 *(1) Support his or her dependents and meet his or her family*
30 *responsibilities;*

31 ~~*(2) Work faithfully at suitable employment;*~~

32 ~~*(3) Pursue a prescribed secular course of study or vocational*~~
33 ~~*training designed to equip him or her for suitable employment;*~~

34 ~~*(4)*~~ *(2) Undergo available medical or psychiatric treatment and*
35 *enter and remain in a specified institution when required for medical or*
36 *psychiatric treatment;*



1 ~~(5)~~(3) Participate in a community-based rehabilitative program
2 or work-release program that uses practices proven to reduce recidivism and
3 for which the court may impose a reasonable fee or assessment on the
4 defendant to be used in support of the community-based rehabilitative program
5 or work-release program;

6 ~~(6)~~(4) Refrain from frequenting an unlawful or designated place
7 or consorting with a designated person;

8 ~~(7)~~(5) Have no firearm in his or her possession;

9 ~~(8)~~(6) Make restitution to an aggrieved party in an amount the
10 defendant can afford to pay for the actual loss or damage caused by his or
11 her offense;

12 ~~(9)~~(7) Post a bond, with or without surety, conditioned on the
13 performance of a prescribed condition; and

14 ~~(10)~~(8) Satisfy any other condition reasonably related to the
15 rehabilitation of the defendant and not unduly restrictive of his or her
16 liberty or incompatible with his or her freedom of conscience.

17 (d) If the court places a defendant on probation, as a condition of
18 its order the court may require that the defendant:

19 (1) Report as directed to the court or the probation officer and
20 permit the probation officer to visit the defendant at the defendant's place
21 of employment or elsewhere;

22 (2) Remain within the jurisdiction of the court unless granted
23 permission to leave in a written statement by the court or the probation
24 officer; and

25 (3) Answer any reasonable inquiry by the court or the probation
26 officer and promptly notify the court or probation officer of any change in
27 address or employment.

28 (e) If the court suspends imposition of sentence on a defendant or
29 places him or her on probation, the ~~defendant~~ court shall:

30 (1) Require that the defendant either:

31 (A) Work consistently in suitable employment for the
32 entire duration of his or her suspended sentence or probation or for three
33 (3) years, whichever occurs earlier; or

34 (B)(i) If the defendant is unemployed, pursue a prescribed
35 secular course of study and show continuous progress in improving academic
36 skills and education by increasing his or her reading, math, and

1 communication skills to at least the ninth grade level regardless of a prior
 2 high school or other educational credentials.

3 (ii) Under subdivision (e)(1)(B)(i) of this section,
 4 a defendant shall also meet at least one (1) of the following benchmarks:

5 (a) Earn a Career Readiness Certificate;

6 (b) Earn a Workforce Alliance for Growth in
 7 the Economy Certificate;

8 (c) Earn a high school diploma by passing the
 9 Department of Career Education approved assessment; or

10 (d) Enroll in vocational training designed to
 11 equip him or her for suitable employment.

12 (iii) If the defendant is serving a suspended
 13 sentence or is on probation at the end of the study or training required by
 14 subdivision (e)(1)(B)(i) of this section, he or she shall work in suitable
 15 employment for the remainder of his or her suspended sentence or probation or
 16 for three (3) years, whichever occurs earlier; and

17 (2) ~~be given~~ Give the defendant a written statement explicitly
 18 setting forth the conditions under which he or she is being released.

19
 20 SECTION 2. Arkansas Code § 5-4-903(b), concerning the incorporation of
 21 services into a pre-adjudication probation program, is amended to read as
 22 follows:

23 (b)(1) A pre-adjudication probation program may incorporate services
 24 from various state agencies and educational institutions, including without
 25 limitation the Department of Community Correction, ~~and~~ the Department of
 26 Human Services, the Adult Education Division of the Department of Career
 27 Education, vocational schools, technical schools, community colleges, and
 28 two-year and four-year public universities.

29 (2) Participating state agencies and educational institutions
 30 may provide:

31 (A) Persons to serve as pre-adjudication probation
 32 officers, drug counselors, or other support staff;

33 (B) Drug testing and other substance-abuse facilities;

34 (C) Intensive short-term and long-term residential
 35 treatment for participants in the pre-adjudication probation program who have
 36 demonstrated a need for substance abuse treatment or other mental health-

1 related treatment; ~~and~~

2 (D) Educational materials, classrooms, and staff; and

3 ~~(D)(E)~~ Other personnel, support staff, or facilities that
4 the circuit court administering the pre-adjudication probation program finds
5 necessary or helpful.

6
7 SECTION 3. Arkansas Code § 5-4-907(a), concerning costs and fees
8 associated with a pre-adjudication program, is amended to read as follows:

9 (a) The pre-adjudication probation program judge may order the
10 offender to pay:

11 (1) Court costs as provided in § 16-10-305;

12 (2) Any substance abuse treatment costs;

13 (3) Drug testing costs;

14 (4) Costs associated with mental health treatment;

15 (5) A pre-adjudication probation program user fee;

16 (6) Any restitution owed the victim of the charged criminal
17 offense;

18 (7) Necessary supervision fees;

19 (8) Any applicable residential treatment fees; ~~and~~

20 (9) Tuition and other educational fees for vocational schools,
21 technical schools, community colleges, or two-year and four-year public
22 universities that are part of the pre-adjudication probation program for
23 which the offender is participating; and

24 ~~(9)(10)~~ Any fees determined or authorized under § 12-27-
25 125(b)(17)(B) or § 16-93-104(a)(1), which are to be paid to the Department of
26 Community Correction.

27
28 SECTION 4. Arkansas Code § 5-4-908(b), concerning the training and
29 implementation manual associated with a pre-adjudication program, is amended
30 to read as follows:

31 (b) Each judicial district may develop a training and implementation
32 manual for a pre-adjudication probation program with the assistance of ~~the~~:

33 (1) The Department of Human Services;

34 (2) The Department of Education;

35 (3) The Department of Career Education;

36 (4) The Department of Community Correction; ~~and~~

1 (5) The Administrative Office of the Courts; and

2 (6) Any vocational school, technical school, community college,
3 or two-year and four-year public university that has volunteered to be part
4 of the pre-adjudication program in the judicial district.

5
6 SECTION 5. Arkansas Code Title 5, Chapter 4, Subchapter 9, is amended
7 to add an additional section to read as follows:

8 5-4-913. Education screening.

9 A person eligible to enter a pre-adjudication program under this
10 subchapter shall have his or her education level assessed by the court by
11 completing a reading, literacy, and math assessment by the Department of
12 Career Education.

13
14 SECTION 6. Arkansas Code § 12-27-134 is amended to read as follows:

15 12-27-134. Probation services – Development of curriculum.

16 (a) The Department of Community Correction shall administer, in
17 cooperation with the circuit courts, the provision of probation services as
18 prescribed by the circuit courts.

19 (b) The department shall establish an acceptable procedure that
20 ensures the selection of qualified applicants to meet the needs of the
21 circuit courts and includes subject matter experts from the circuit courts.

22 (c)(1) The department shall develop a curriculum of vocational or
23 technical education or training programs for persons who have been ordered by
24 a circuit court to complete a required vocational or technical education or
25 training program as a condition of their suspended sentence or probation.

26 (2) A person who is being supervised on parole, probation, or
27 other program by the department and who is required by court order or
28 otherwise is required by law to complete vocational or technical education or
29 a training program as a condition of release may apply to enroll for
30 vocational or technical education or a training program offered by Riverside
31 Vocational and Technical School, and accommodating the person's admission
32 shall be attempted by the school.

33
34 SECTION 7. Arkansas Code Title 12, Chapter 28, Subchapter 1, is
35 amended to add an additional section to read as follows:

36 12-28-108. Preferential housing of inmates – Development of

1 curriculum.

2 (a) Subject to other rules as implemented by the Board of Corrections
3 as well as security concerns, the Department of Correction shall attempt to
4 house an inmate who requires vocational or technical education or training as
5 a condition of his or her parole under § 16-93-618 in a facility that offers
6 a vocational or technical education or training program through Riverside
7 Vocational and Technical School.

8 (b)(1) The department shall develop a curriculum of vocational or
9 technical education or training programs that will enable an inmate to be
10 employable upon his or her release and shall make all necessary
11 accommodations for the inmate's ease of entry back into the societal
12 workforce.

13 (2) An inmate in the department who is required by court order
14 or otherwise is required by law to complete a vocational or technical
15 education or training program as a condition of release may apply to enroll
16 for a vocational or technical education or training program offered by the
17 school, and accommodating the inmate's admission shall be attempted by the
18 school.

19
20 SECTION 8. Arkansas Code § 12-29-309 is amended to read as follows:

21 12-29-309. Riverside Vocational and Technical School – Facilities –
22 Operations – Rules ~~and regulations.~~

23 ~~(a)(1) For the purpose of enabling the Department of Correction and~~
24 ~~the Department of Community Correction to fulfill their legal~~
25 ~~responsibilities as correctional institutions, the~~ The State Board of Career
26 Education shall locate facilities and operate ~~vocational education~~ vocational
27 or technical education or training programs within the Riverside Vocational
28 and Technical School ~~under such agreements, and.~~

29 (2) The operation of the school is subject to ~~such special rules~~
30 ~~and regulations, as are deemed appropriate for the operation of vocational~~
31 ~~and technical school~~ vocational or technical education or training programs
32 at the facilities of ~~the~~ correctional institutions under the control of the
33 Department of Correction and the Department of Community Correction in
34 accordance with agreements, ~~and rules, and regulations~~ mutually developed and
35 agreed to by the State Board of Career Education and the Board of
36 Corrections.

1 (b)(1) The school shall be entitled to all funds, rights, and
2 privileges and shall be operated in the same manner as other area vocational
3 and technical schools are operated in this state ~~but~~.

4 (2) However, the school shall be operated in accordance with the
5 ~~special rules and regulations~~ for the operation of ~~such vocational and~~
6 ~~technical school~~ vocational or technical education or training programs at
7 facilities of the Department of Correction and the Department of Community
8 Correction as provided in §§ 12-29-306 – 12-29-310.

9
10 SECTION 9. Arkansas Code § 16-90-1404(1), concerning the definition of
11 "completion of a person's sentence" under the Comprehensive Criminal Record
12 Sealing Act of 2013, is amended to read as follows:

13 (1) "Completion of a person's sentence" means that the person, after
14 being found guilty:

15 (A) ~~Has paid~~ Paid his or her fine, court costs, or other
16 monetary obligation as defined in § 16-13-701 in full, unless the obligation
17 has been excused by the sentencing court;

18 (B) Served any time in county or regional jail, a Department of
19 Community Correction facility, or a Department of Correction facility in
20 full; and

21 (C) If applicable:

22 (i) Has been discharged from probation or parole;

23 (ii) Completed any suspended sentence;

24 (iii) Paid any court-ordered restitution;

25 (iv) Completed any court-ordered community service;

26 (v) Paid any driver's license suspension reinstatement
27 fees, if a driver's license suspension reinstatement fee was assessed as a
28 result of the person's arrest, plea of guilty or nolo contendere, or a
29 finding of guilt for the offense; ~~and~~

30 (vi) Completed all other driver's license reinstatement
31 requirements, if a driver's license suspension was imposed as a result of the
32 person's arrest, plea of guilty or nolo contendere, or a finding of guilt for
33 the offense; and

34 (vii) Completed any vocational or technical education or
35 training program that was required as a condition of the person's parole or
36 probation;

1
2 SECTION 10. Arkansas Code § 16-93-303, concerning first-time offenders
3 and court-ordered probation, is amended to add an additional subsection to
4 read as follows:

5 (f) A court as a condition of probation shall order the defendant to:

6 (1)(A)(i) Enroll in and complete a vocational or technical
7 education or training program at the Riverside Vocational and Technical
8 School or a similar program if the court finds that the defendant's lack of
9 an employable or marketable skill contributes to the defendant's being
10 unemployed.

11 (ii) The court may order the person to pay tuition
12 for any education or training program in installments after the completion of
13 the education or training program. (B) If the defendant is on

14 probation at the end of the vocational or technical education or training
15 program required by subdivision (f)(1)(A) of this section, he or she shall be
16 required to work in suitable employment for the remainder of his or her
17 probation or for three (3) years, whichever occurs earlier; or

18 (2) Work consistently in suitable employment for the entire
19 duration of his or her probation or for three (3) years, whichever occurs
20 earlier.

21
22 SECTION 11. Arkansas Code § 16-93-1207, concerning the court order
23 placing a person on probation, is amended to add an additional subsection to
24 read as follows:

25 (c) A court as a condition of probation shall order the defendant to:

26 (1)(A)(i) Enroll in and complete a vocational or technical
27 education or training program at the Riverside Vocational and Technical
28 School or a similar program if the court finds that the defendant's lack of
29 an employable or marketable skill contributes to the defendant's being
30 unemployed.

31 (ii) The court may order the person to pay tuition
32 for any education or training program in installments after the completion of
33 the education or training program. (B) If the defendant is on

34 probation at the end of the vocational or technical education or training
35 program required by subdivision (c)(1)(A) of this section, he or she shall be
36 required to work in suitable employment for the remainder of his or her

1 probation or for three (3) years, whichever occurs earlier; or
2 (2) Work consistently in suitable employment for the entire
3 duration of his or her probation or for three (3) years, whichever occurs
4 earlier.

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6 /s/C. Armstrong
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