

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Representative Mahony

HOUSE BILL 1896

"AN ACT TO AMEND ACT 50 OF THE FIRST EXTRAORDINARY SESSION OF 1968, AS AMENDED [ARK. STATS. ANN. (1964) SECTION 43-2807]; ALLOWING THE COURT TO REQUIRE ANYONE CONVICTED OF A CRIME INVOLVING THE USE OF A DEADLY WEAPON TO SERVE ONE-HALF (|) OF THE TIME FOR WHICH SENTENCED WITH CREDIT FOR GOOD TIME ALLOWANCES; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 28 of Act 50 of the First Extraordinary Session of 1968, as amended, the same being Section 43-2807 of the Arkansas Statutes of 1964, is amended to read as follows:

"Section 28. PAROLE ELIGIBILITY.

(a) Death Sentence. Individuals under sentence of death shall not be eligible for release on parole.

(b) Life Imprisonment. (1) Individuals sentenced to life imprisonment prior to March 1, 1968, and those sentenced to life imprisonment after February 12, 1969 and before April 1, 1977, shall not be eligible for release on parole unless such sentence is commuted to a term of years by executive clemency. When such life sentence has been commuted to a term of years, the individual shall be eligible for release on parole after having served one third (1/3) of the time to which the life sentence was commuted, with credit for good time allowances.

(2) Individuals sentenced to life imprisonment on and after March 1, 1968, and prior to February 12, 1969, shall be eligible for release on parole after having served fifteen (15) years of the sentence, with credit for good time allowances not to exceed five (5) years.

(c) Sentence of Years. Individuals sentenced to a term of years in the State Penitentiary, after February 11, 1976 and before April 1, 1977, shall be

eligible for release on parole after having served the following terms:

(1) Individuals sentenced to a term of years for other than a class Y felony, who shall be confined in the State Penitentiary for the second (2nd) time, shall be eligible for release on parole after having served 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 sentence is commuted by executive clemency, with credit for good time allowance; provided however, a judge may require one half (|) of the sentence as imposed, or one half (|) of the sentence as commuted by executive clemency to be served with credit for good time allowances.

(2) Individuals sentenced to a term of years who shall be confined in The State Penitentiary and who have pled guilty or been convicted of a class Y felony or who have previously been confined in the State Penitentiary two (2) or more times shall be eligible for release on parole after having served one half (|) of the time to which such sentence is commuted by executive clemency with credit for good time allowance.

(d) Notwithstanding the above provisions, the court may require anyone convicted of a crime involving the use of a deadly weapon to serve one half (|) of the time for which sentenced, with credit for good time allowances."

SECTION 2. SEVERABILITY CLAUSE. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. It is hereby found and determined by the General Assembly that because of the case *Ricarte v. State*, CR 86-31, a question has arisen over the validity of Act 1157 of the Extended Session of 1976; that this Act is a reenactment of the former law; and that the immediate passage of this Act is necessary to clarify the state of the law on this issue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in

full force and effect from and after its passage and approval.