

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H3/2/07
A Bill

HOUSE BILL 2258

5 By: Representative E. Brown
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For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE § 5-2-316
10 CONCERNING THE CONDITIONAL RELEASE OF PERSONS
11 ACQUITTED OF A CRIME BY REASON OF MENTAL DISEASE
12 OR DEFECT; AND FOR OTHER PURPOSES.
13

Subtitle

14 TO AMEND ARKANSAS CODE § 5-2-316
15 CONCERNING THE CONDITIONAL RELEASE OF
16 PERSONS ACQUITTED OF A CRIME BY REASON
17 OF MENTAL DISEASE OR DEFECT.
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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 § 5-2-316 is amended to read as follows:

24 5-2-316. Conditional release - Subsequent discharge, modification, or
25 revocation.

26 (a)(1) Any person conditionally released pursuant to § 5-2-314 or § 5-
27 2-315 may apply to the court ordering the conditional release for discharge
28 from or modification of the order granting conditional release on the ground
29 that he or she may be discharged or the order modified without danger to
30 himself or herself or to the person or property of another.

31 (2) The application shall be accompanied by a supporting
32 affidavit of a qualified physician.

33 (3) A copy of the application and affidavit shall be transmitted
34 to the prosecuting attorney of the judicial circuit from which the person was
35 conditionally released and to any person supervising his or her release, and
36 the hearing on the application shall be held following notice to the



1 prosecuting attorney and the person supervising his or her release.

2 (b)(1) Within five (5) years after the most recent order of
 3 conditional release is issued pursuant to § 5-2-314 or § 5-2-315 ~~granting~~
 4 ~~conditional release~~, and after notice to the conditionally released person
 5 and a hearing, ~~if the court determines~~ may determine that the conditionally
 6 released person has violated a condition of release or that for the safety of
 7 the conditionally released person or for the safety of the person or property
 8 of another ~~his or her~~ the conditional release should be modified or revoked,
 9 ~~the court may:~~

10 ~~(1) Modify a condition of release; or~~

11 ~~(2) Order the the conditionally released person to be committed~~
 12 ~~to the custody of the Director of the Arkansas State Hospital or another~~
 13 ~~appropriate facility subject to discharge or release only in accordance with~~
 14 ~~the procedure prescribed in § 5-2-315.~~

15 (2)(A) If an order is entered revoking the most recent order of
 16 conditional release under subdivision (b)(1) of this section, all conditions
 17 of the release shall be abated, including the five-year conditional release
 18 time frame in subdivision (b)(1) of this section, and the person shall be
 19 ordered to be committed to the custody of the Director of the Department of
 20 Health and Human Services or the director's designee.

21 (B) After the revocation described in subdivision
 22 (b)(2)(A) of this section, the person is subject to future discharge or
 23 release only in accordance with the procedure prescribed in § 5-2-315.

24
 25 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
 26 General Assembly of the State of Arkansas that the present procedure for
 27 revocation of conditional release orders is inadequate to protect the public;
 28 that this act is necessary to clarify and refute the Original Commentary
 29 regarding § 5-2-316(b); and that this act is necessary to assure continued
 30 treatment for those persons who cannot or will not maintain appropriate
 31 treatment and who have previously shown the capacity to commit felonies.
 32 Therefore, an emergency is declared to exist and this act being immediately
 33 necessary for the preservation of the public peace, health, and safety shall
 34 become effective on:

35 (1) The date of its approval by the Governor;

36 (2) If the bill is neither approved nor vetoed by the Governor,

1 the expiration of the period of time during which the Governor may veto the
2 bill; or

3 (3) If the bill is vetoed by the Governor and the veto is
4 overridden, the date the last house overrides the veto.

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/s/ E. Brown