

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 87th General Assembly  
3 Regular Session, 2009

# A Bill

HOUSE BILL 2245

4  
5 By: Representative Maloch  
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## For An Act To Be Entitled

9 AN ACT TO REQUIRE PAROLE REVIEW FOR ALL PERSONS  
10 SERVING LIFE WITHOUT PAROLE FOR CAPITAL MURDER OR  
11 A LIFE SENTENCE FOR A CLASS Y FELONY COMMITTED  
12 WHEN THE PERSON WAS UNDER EIGHTEEN YEARS OF AGE;  
13 AND FOR OTHER PURPOSES.  
14

## Subtitle

15 AN ACT TO REQUIRE PAROLE REVIEW FOR ALL  
16 PERSONS SERVING LIFE WITHOUT PAROLE FOR  
17 CAPITAL MURDER OR A LIFE SENTENCE FOR A  
18 CLASS Y FELONY COMMITTED WHEN THE PERSON  
19 WAS UNDER EIGHTEEN YEARS OF AGE.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

### SECTION 1. NOT TO BE CODIFIED.

25 Whereas, historically, courts in the United States have recognized the  
26 undeniable differences between adult and youth offenders; and  
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28 Whereas, some juveniles have pleaded guilty and agreed to a sentence of  
29 life without parole in order to avoid the possibility of the death penalty;  
30 and

31 Whereas, in the 2005 case of Roper v. Simmons, 543 U.S. 551 (2005), the  
32 Supreme Court of the United States abolished the use of the death penalty for  
33 juveniles, with Justice Kennedy declaring the differences between juveniles  
34 and adults to be "marked and well understood"; and

35 Whereas, the majority of youths sentenced to life without parole are  
36 first-time offenders; and



1        Whereas, less than one percent (1%) of the prison population in  
 2 Arkansas is made up of inmates sentenced to life or life without parole for  
 3 crimes committed before eighteen (18) years of age; and

4        Whereas, it is proper for juvenile offenders to have a possibility of  
 5 parole or reduced sentence after a meaningful review by the Parole Board,  
 6 considering the circumstances of the crime, the age of the offender at the  
 7 time of the crime, the conduct of the inmate during the time of  
 8 incarceration, the rehabilitation of the inmate, the health of the inmate,  
 9 and other factors relevant to the board.

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 11        SECTION 2. Arkansas Code § 16-93-607(b) and (c), concerning parole  
 12 eligibility for felonies committed after April 1, 1983, are amended to read  
 13 as follows:

14        (b) A person who committed a felony prior to April 1, 1983, and who  
 15 ~~were~~ was convicted and incarcerated for that felony, shall be eligible for  
 16 release on parole in accordance with the parole eligibility law in effect at  
 17 the time the crime was committed, except for a person to whom subdivision  
 18 (c)(6)(A) of this section applies.

19        (c) A person who commits felonies on or after April 1, 1983, and who  
 20 shall be convicted and incarcerated for that felony, shall be eligible for  
 21 release on parole as follows:

22            (1) An inmate under sentence of death or life imprisonment  
 23 without parole is not eligible for release on parole but may be pardoned or  
 24 have ~~their~~ his or her sentence commuted by the Governor, as provided by law.  
 25 An inmate sentenced to life imprisonment is not eligible for release on  
 26 parole unless the sentence is commuted to a term of years by executive  
 27 clemency. Upon commutation, the inmate is eligible for release on parole as  
 28 provided in this section;

29            (2) An inmate classified as a first offender under § 16-93-606,  
 30 except ~~one~~ an inmate under the age of twenty-one (21) years as described in  
 31 subsection (d) of this section ~~and except one~~ or an inmate who pleads guilty  
 32 or has been convicted of a Class Y felony, upon entering a correctional  
 33 institution in this state under sentence from a circuit court, is not  
 34 eligible for release on parole until a minimum of one-third (1/3) of the time  
 35 to which the sentence is commuted by executive clemency is served, with  
 36 credit for good-time allowances. However, if the trier of fact determines

1 that a deadly weapon was used in the commission of the crime, a first  
 2 offender twenty-one (21) years of age or older is not eligible for release on  
 3 parole until a minimum of one-half ( $\frac{1}{2}$ ) of the sentence is served, with credit  
 4 for good-time allowances;

5 (3) An inmate classified as a second offender under § 16-93-606  
 6 ~~and or one~~ an inmate who pleads guilty or was convicted of a Class Y felony,  
 7 upon entering a correctional institution in this state under sentence from a  
 8 circuit court, is not eligible for release on parole until a minimum of one-  
 9 half ( $\frac{1}{2}$ ) of his or her sentence shall have been served, with credit for good-  
 10 time allowances, or one-half ( $\frac{1}{2}$ ) of the time to which the sentence is  
 11 commuted by executive clemency is served, with credit for good-time  
 12 allowances;

13 (4) An inmate classified as a third offender under § 16-93-606,  
 14 upon entering a correctional institution in this state under sentence from a  
 15 circuit court, is not eligible for release on parole until a minimum of  
 16 three-fourths ( $\frac{3}{4}$ ) of his or her sentence shall have been served, with credit  
 17 for good-time allowances, or three-fourths ( $\frac{3}{4}$ ) of the time to which the  
 18 sentence is commuted by executive clemency shall have been served, with  
 19 credit for good-time allowances; ~~and~~

20 (5) An inmate classified as a fourth offender under § 16-93-606,  
 21 upon entering a correctional institution in this state under sentence from a  
 22 circuit court, is not eligible for parole, but he or she shall be entitled to  
 23 good-time allowances as provided by law; and

24 (6)(A) Notwithstanding other laws governing commutation and  
 25 parole of persons sentenced to life imprisonment or life imprisonment without  
 26 parole, an inmate shall be eligible for release on parole after serving  
 27 twenty (20) years of his or her sentence if he or she was:

28 (i) Either:

29 (a) Convicted of capital murder, § 5-10-101,  
 30 and sentenced to life imprisonment without parole; or

31 (b) Convicted of a Class Y felony and  
 32 sentenced to life imprisonment; and

33 (ii) Under eighteen (18) years of age at the time of  
 34 the commission of the offense.

35 (B) For an inmate who was sentenced to life imprisonment  
 36 without parole to become eligible for parole under the terms of subdivision

1 (c)(6)(A) of this section, the inmate's sentence must first be reduced to  
2 life imprisonment under § 5-4-607.

3 (C) Unless a sentence of an inmate paroled under  
4 subdivision (c)(6)(A) of this section is subsequently commuted by the  
5 governor to a term of years, the period of eligibility for parole is for  
6 life.

7 (D) This subdivision (c)(6) does not guarantee a right to  
8 parole although, if parole is denied, the person is eligible to request  
9 parole every three (3) years after the date of his or her initial review.

10 (E) This subdivision (c)(6) applies to an inmate who meets  
11 the requirements of subdivision (c)(6)(A) of this section whether convicted  
12 and sentenced before or after the effective date of this act.

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