

JUSTICE FOR ALL PACKET

2025 LEGISLATIVE SESSION

AMENDING ACT 539 OF 2017

2025 LEGISLATIVE SESSION

UNDERSTANDING ARKANSAS'S ACT 539 OF 2017

Act 539 (The Fair Sentencing of Minors Act of 2017) protects people younger than 18 years old who have committed a serious crime from being sentenced to death or life without parole. Under Act 539, people sentenced as minors are made eligible for parole consideration after serving 26-30 years of their sentence, depending on the severity of their crime.

Act 539 of 2017 was sponsored by Representative Rebecca Petty (R) and brought Arkansas into compliance with recent United States Supreme Court rulings in *Roper v. Simmons* (2005), *Graham v. Florida* (2010), and *Miller v. Alabama* (2012).

WHAT DOES THIS BILL DO?

This bill simply extends the age limit of individuals impacted by Act 539 to protect people up to the age of 21 years old.

WHY THIS BILL IS A GOOD IDEA FOR ARKANSAS

- Young people are more vulnerable to negative influences and outside pressures, including from their family and peers, and they have limited control over their own environment and lack the ability to extricate themselves from horrific, crime-producing settings.
- Though the brain may be done growing in size, it does not finish developing and maturing until the mid-to-late 20s. The prefrontal cortex (the part of the brain that helps inhibit impulses and plan for the future) is not fully developed until the age of 25.
- This bill does not guarantee release for juvenile offenders. It simply provides a review from the parole board.

AMENDING ACT 539 OF 2017

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WHY THIS BILL IS A GOOD IDEA FOR ARKANSAS CONT'D

- Current Arkansas law already recognizes the overlap between minors (under 18) and young adults (under 21) in the juvenile code. For example, individuals are prohibited from smoking, purchasing or consuming alcohol, obtaining a CDL license, and gambling or accessing casinos until the age of 21. Similarly, foster care was extended in the 2021 Legislative session to include people under the age of 21.
- According to the Bureau of Justice Statistics, there is a direct correlation between age and crime. Homicide and drug-arrest rates peak at age 19. Arrest rates for forcible rape peak at 18. Some crimes, such as vandalism, crest even earlier, at age 16, while arrest rates for forgery, fraud, and embezzlement peak in the early 20s. For most of the crimes the F.B.I. tracks, more than half of all people will be arrested by the time they are 30.
- As the United States Supreme Court quoted in *Miller v. Alabama* (2012), "only a relatively small proportion of adolescents" who engage in illegal activity "develop entrenched patterns of problem behavior."

ELIMINATING YOUTH FINES & FEES

2025 LEGISLATIVE SESSION

UNDERSTANDING THE IMPACT OF YOUTH FINES & FEES

- Ability-to-pay mechanisms are highly discretionary and inconsistent, forcing fines to vary courtroom by courtroom. This bill would eliminate that uncertainty,, focusing on accountability through parental & familial programs and services.
- Ability-to-pay mechanisms can fail to generate significant net revenue, even costing taxpayers in some counties.
- Punishing families for being poor does not lead the youth to the goals: skill development, rehabilitation, and successful reintegration.
 - Studies show this can result in higher recidivism. Some impacted individuals resorted to stealing food due to not being able to afford groceries due to paying fines or failed to pay which results in additional fines & fees or longer supervision sentences.

WHAT DOES THIS BILL DO?

Eliminates fines and fees for most youth court, excluding restitution and FINs cases, with an emphasis of accountability through other means including family and youth programs and services.

ELIMINATING YOUTH FINES & FEES

2025 LEGISLATIVE SESSION

WHY THIS BILL IS A GOOD IDEA FOR ARKANSAS

- Child poverty rates nearly doubled in 2022 (from 7.2% to 12.4%).
- 16% of Arkansans live below the federal poverty level.
- 31% of Arkansans are asset limited and income-constrained despite having a job.
- Impacted individuals have shared having to go without necessities, such as food, utilities, weather and size-appropriate clothing, to even having their parents declare bankruptcy due to the financial stress youth fines & fees caused. Allowing more money to stay in the pockets of families let's them work to progress their families towards goals of the court.

AMENDING CASH BAIL

2025 LEGISLATIVE SESSION

UNDERSTANDING ARKANSAS'S CASH BAIL LAWS IMPACT

Wealth, not safety, is often the determining factor in who walks free and who remains in custody in Arkansas. The use of cash bail allows for those who are too poor to pay to spend needless time incarcerated because they cannot afford to pay bail, resulting in a two-tier system, one for wealthy and one for those that are not. With 47% of households in Arkansas living below the ALICE threshold and 15.7% of Arkansans living in poverty, the consequences of cash bail are immense for Arkansans. The use of cash bail destabilizes our communities – pretrial detention results in missed work, loss of jobs, parent-child separation, and loss of housing. Even a few days in jail heightens the risk of rearrest, with the risk nearly doubling after just 3 days.

WHAT DOES THIS BILL DO?

This bill would eliminate cash bail for misdemeanor charges and put in place a system where misdemeanor charges are cited electronically or written with information on court appearance details.

WHY THIS BILL IS A GOOD IDEA FOR ARKANSAS

- By creating a legal presumption against cash bail for misdemeanors, this bill will stop those who are too poor to pay from spending needless time incarcerated while awaiting trial. However, the exceptions to this bill recognize that some misdemeanors are held to higher standards than others. The presumption can be overcome by clear and convincing evidence - documented and recorded by law enforcement - that the person has a history of willful and intentional failure to appear in court for the purpose of absconding from the jurisdiction of the court within the last two years, or that he or she presents an imminent and identifiable threat to a specific person(s).

AMENDING CASH BAIL

2025 LEGISLATIVE SESSION

WHY THIS BILL IS A GOOD IDEA FOR ARKANSAS CONT'D

- **Cash bail on misdemeanor charges creates unnecessary incarceration and disproportionately costs Arkansans millions in taxpayer dollars.**
 - The average cost of housing someone in a local jail is \$64.37 per day in 2023.
 - In Washington County, between 70-80 of those held pretrial at the jail have an address listed as a day shelter or as 'homeless.' Jail has become a way of sheltering these individuals rather than addressing the root issues of housing and job security.
 - Jails account for 39% of all state corrections dollars, with 2 in 5 dollars of the state corrections budget going to fund jail expenditures (2017).
 - Arkansas currently has a 5,000 case backlog that is extending the amount of time someone's case is moving through the courts, creating a longer period of incarceration for those who cannot afford to make bail.
- **Cash bail is not necessary to compel people to attend court or to guarantee public safety.**
 - In Illinois, following the Pretrial Fairness Act, Illinois judges have issued FTA warrants in only 5% of 28,416 cases.
 - Following the implementation of the Pretrial Fairness Act in Illinois in September 2023, crime rates in Chicago have decreased - homicides dropped by 9%, robberies by 8%, and car theft by 18%.
 - NWA Hummingbird Project launched Washington County in May 2024 with an over 90% return to court rate.

ENDING THE EXCEPTION

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UNDERSTANDING THE 13TH AMMENDMENT

The exception to the 13th Amendment in the Arkansas Constitution allows for involuntary servitude as a punishment for those convicted of crimes. This exception, rooted in the original language of the 13th Amendment, permits slavery in the context of the prison system. Historically, this provision has been used in ways that disproportionately affect marginalized communities, particularly Black and Brown individuals, perpetuating systemic inequalities.

WHAT DOES THIS AMMENDMENT DO?

This amendment to the Arkansas Constitution seeks to remove the exception to slavery within the 13th Amendment, which allows involuntary servitude as a punishment for those convicted of crimes. By eliminating this exception, Arkansas would affirm its commitment to the values of freedom, equality, and human dignity for all individuals, regardless of their incarceration status.

ENDING THE EXCEPTION

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WHY THIS BILL IS A GOOD IDEA FOR ARKANSAS

- Removing the exception to slavery affirms the moral belief that no person, under any circumstance, should ever be treated as less than human. This is a commitment to justice and equality that stands firm on the values of freedom and respect for human life.
- The state has a responsibility to protect the basic freedoms of all its citizens, including those who have been incarcerated. By eliminating the exception, Arkansas will reinforce the principle that freedom and justice should be preserved for everyone, not just for those outside the justice system.
- The exception to the 13th Amendment has been historically used to perpetuate systems that disproportionately affect marginalized groups, particularly Black and Brown communities. This amendment provides an opportunity to correct a longstanding injustice, helping Arkansas lead the way in rectifying systemic inequities and advancing toward a more just society.
- Our criminal justice system should focus on redemption, not solely on punishment. By removing the exception to slavery, Arkansas signals its belief in second chances and the potential for incarcerated individuals to rehabilitate and reintegrate into society as positive contributors.

SOLITARY DATA COLLECTION

2025 LEGISLATIVE SESSION

UNDERSTANDING SOLITARY IN ARKANSAS

Solitary confinement isolates incarcerated people in a small cell for 22 or more hours a day, causing severe psychological effects like anxiety, depression, and suicidal tendencies, especially for vulnerable groups like the young, elderly, or mentally ill. These harmful effects can make it harder for inmates to reintegrate into society after release.

In March 2024, the Arkansas Department of Corrections released a study on suicides in Arkansas prisons, citing a 2014 report that found “that the risk of suicide among those in a single-cell in isolation is more than 400 times greater than those in a double-cell in generational population.” The report also asserts that “Despite this well-established literature [on suicidality among incarcerated people], suicide remains a problem in the Arkansas Department of Corrections.”

WHAT DOES THIS BILL DO?

This bill requires data collection on solitary confinement in Arkansas prisons and jails to ensure transparency and accountability by requiring the Arkansas Department of Correction, Division of Youth Services, and local detention facilities to submit quarterly reports to the Legislative Council. These reports must include demographic data, the duration of solitary confinement (e.g., 15–30 days, over six years), incidents of suicide or attempts, and deaths in segregation. Additionally, they must categorize reasons for placement in solitary, such as violent behavior, possession of contraband, or refusal to follow orders. By tracking these details, the legislation aims to assess the impact of solitary confinement, particularly on vulnerable groups, and inform policy reform.

SOLITARY DATA COLLECTION

2025 LEGISLATIVE SESSION

WHY THIS BILL IS A GOOD IDEA FOR ARKANSAS

- **Promotes Government Accountability:** This bill strengthens oversight by requiring detailed, quarterly reports on the use of solitary confinement. It ensures that correctional facilities are transparent in their practices and accountable to the public and lawmakers, aligning with conservative values of limited government and fiscal responsibility.
- **Protects the Safety and Well-Being of Vulnerable Groups:** The bill prioritizes the well-being of young and elderly inmates, as well as those with serious mental illnesses, ensuring that these groups are not disproportionately harmed by solitary confinement. This approach reflects a commitment to both public safety and humane treatment.
- **Ensures Efficient Use of Resources:** By tracking the duration and reasons for solitary confinement, the bill ensures that this practice is only used when necessary. It helps prevent the misuse of limited resources.
- **Focus on Mental Health Solutions:** The bill recognizes the importance of addressing mental health needs in the prison system. By monitoring the impact of solitary confinement on those with serious mental illness, the legislation ensures that more effective, long-term solutions are pursued.
- **Data-Driven Policy Decisions:** This bill provides crucial data to make informed, effective decisions about Arkansas' correctional system. With accurate data, lawmakers can make adjustments to policies to improve outcomes and reduce unnecessary costs.
- **Upholds Principles of Fairness and Justice:** By requiring regular reports on solitary confinement, the bill supports a fair and just correctional system that ensures inmates are treated humanely while still maintaining law and order. It aligns with conservative principles of justice and fairness.

AMENDING DRUG PARAPHERNALIA

2025 LEGISLATIVE SESSION

UNDERSTANDING DRUG PARAPHERNALIA LAWS

The current reach of law is excessive in terms of criminalizing otherwise innocent conduct by carrying what are everyday items. Carrying an envelope or a balloon from a birthday party can be considered a crime. The amendment seeks to make the punishment more proportionate to the conduct complained about. Given the overcrowding in local jails, the lowering of drug paraphernalia to a misdemeanor up to the 4th occurrence, in line with the DWI laws, will immediately make this a charge that allows for cite and release and/or a lower bond amount to assist localities in release and population management. A mechanism to charge an individual in possession of drugs already exists and would not change.

WHAT DOES THIS BILL DO?

This bill simply moves any and all drug paraphernalia to a misdemeanor charge for the 2nd and 3rd occurrence to align with the DWI statutes that become a felony on the 4th occurrence.

WHY THIS BILL IS A GOOD IDEA FOR ARKANSAS

- As a felony, bond amounts are higher for those charged with drug paraphernalia which causes more community members to sit in county jails that are overcrowded across the state. There has been an increase of arrests in the category for drug narcotic/equipment violation of 99% from 2014 to 2019. Given 30% of makeup of Washington county cases are drug paraphernalia, this could easily be thought to be driving overcrowding in other jails across the state at a cost of taxpayers to house these individuals of \$50 to \$95 per day despite this being a non-violent charge and one that does not create a direct harm to individuals like DWI does today and is allowed 3 before crossing into a felony at the 4th.

AMENDING DRUG PARAPHERNALIA

2025 LEGISLATIVE SESSION

WHY THIS BILL IS A GOOD IDEA FOR ARKANSAS CONT'D

- Individuals do go to prison with this charge through direct prison time or revocation of parole/probation. ADC provided data from 2015 showed 289 in prison with this charge who would serve on average 2 years (with good time credit) or \$12mm to house these individuals.
- Individuals in recovery face the risk of relapse. They are often known by law enforcement which creates a heightened possibility of facing this charge as they navigate sobriety. Those that spend a day in jail face a higher chance of relapse & overdose upon release.
- The definition of drug paraphernalia is incredibly broad and does not have to require residue to be present to be charged.
- Public health agencies like AMERSA and APHA encourage the elimination of drug paraphernalia as a criminal offense stating this can improve public health outcomes, reduce incarceration rates, and enhance access to treatment and harm reduction services.