

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

HOUSE BILL 1185

By: Representative Dalby

## For An Act To Be Entitled

AN ACT CONCERNING THE JUDICIAL OR ADMINISTRATIVE TRANSFER OF AN INMATE TO THE DIVISION OF COMMUNITY CORRECTION; CONCERNING TRANSFER TO THE DIVISION OF COMMUNITY CORRECTION NOTED ON A COURT'S SENTENCING ORDER; AND FOR OTHER PURPOSES.

### Subtitle

CONCERNING THE JUDICIAL OR ADMINISTRATIVE TRANSFER OF AN INMATE TO THE DIVISION OF COMMUNITY CORRECTION.

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

SECTION 1. Arkansas Code § 12-27-113(a) and (b), concerning commitments to the Division of Correction and judicial transfers to the Division of Community Correction, are amended to read as follows:

(a)(1) All commitments to the Division of Correction shall be to the Division of Correction and not to a particular institution.

(2) Commitments may provide for judicial or administrative transfer to the Division of Community Correction.

(b)(1) The Director of the Division of Correction, in accordance with the rules and procedures promulgated by the Board of Corrections, shall transfer an inmate to the Division of Community Correction, pursuant to a judicial transfer, determine the administrative transfer of an inmate to the Division of Community Correction, or assign a newly committed inmate to an appropriate facility of the Division of Correction.

(2) The director may transfer an inmate from one (1) facility to



another consistent with the commitment and in accordance with treatment, training, and security needs.

(3) Inmates may be transferred between the Division of Correction and the Division of Community Correction within the constraints of law applicable to judicial or administrative transfer, subject to the policies, ~~rules, and regulations~~ and rules established by the Board of Corrections, and conditions set by the Parole Board.

(4) The Division of Correction shall retain legal custody of all inmates transferred to community correction unless altered by court order.

SECTION 2. Arkansas Code § 12-27-113(e)(3), concerning inmates judicially transferred to the Division of Community Correction, is amended to read as follows:

(3) For those inmates committed to the Division of Correction and judicially or administratively transferred to the Division of Community Correction, the preparation of a record described in subdivision (e)(1) of this section may be delegated to the Division of Community Correction pursuant to policies applicable to records transmission adopted by the Board of Corrections.

SECTION 3. Arkansas Code § 12-27-127(a), concerning the transfer of a person to the Division of Community Correction, is amended to read as follows:

(a)(1) A commitment shall be treated as a commitment to the Division of Correction and subject to regular transfer eligibility ~~unless~~.

~~(1) The commitment specifies that the~~

(2) However, an inmate is to may be judicially or administratively transferred to the Division of Community Correction, or by the Division of Correction

~~(2) If the court indicates on the commitment that the Division of Correction shall administratively determine the transfer of an inmate, the Division of Correction may administratively transfer a statutorily eligible inmate to the Division of Community Correction in accordance with rules promulgated by the Board of Corrections unless the court indicates on the sentencing order that the Division of Correction shall not administratively transfer a statutorily eligible inmate to the Division of Community~~

Correction in accordance with the rules promulgated by the Board of Corrections.

SECTION 4. Arkansas Code § 16-93-310(c)(2)(A), concerning the commitment to the Division of Correction of a person who has had his or her probation revoked, is amended to read as follows:

(2)(A) The court shall commit the eligible offender to the custody of the Division of Correction under this subchapter for judicial or administrative transfer to the Division of Community Correction subject to the following:

(i) That the sentence imposed provides that the offender shall serve no more than three (3) years of confinement, with credit for meritorious good time, with initial placement in a Division of Community Correction facility; and

(ii) That the initial placement in the Division of Community Correction is conditioned upon the offender's continuing eligibility for Division of Community Correction placement and the offender's compliance with all applicable rules established by the Board of Corrections for community correction programs.

SECTION 5. Arkansas Code § 16-93-614(b)(2), concerning the parole eligibility of a person who committed certain felony offenses after January 1, 1994, is amended to read as follows:

(2) A person who committed a target offense under ~~the Community Punishment Act,~~ § 16-93-1201 et seq., before January 1, 1994, and who has not been sentenced to a term of incarceration may waive the right to be released under the parole eligibility law in effect at the time the crime was committed and shall become eligible for judicial or administrative transfer pursuant to the transfer provisions provided in subdivision (c)(2) of this section.

SECTION 6. Arkansas Code § 16-93-614(c)(2)(A), concerning the parole eligibility of a person who committed certain felony offenses after January 1, 1994, is amended to read as follows:

(2)(A)(i)(a) An offender convicted of a target offense under ~~the Community Correction Act,~~ § 16-93-1201 et seq., may be committed to the

Division of Correction and judicially or administratively transferred to the Division of Community Correction by ~~specific~~ provision in the commitment that the trial court order or authorize such a transfer.

(b) No other offender is eligible for transfer to a Division of Community Correction facility.

(ii) A copy of the commitment shall be forwarded immediately to the Division of Correction and to the Division of Community Correction.

(iii) In the event that an offender is sentenced to the Division of Correction without judicial or administrative transfer on one (1) sentence and concurrently sentenced to the Division of Correction with judicial or administrative transfer on another sentence, the offender shall remain in the Division of Correction, and the sentence with judicial or administrative transfer may be discharged in the same manner as that of an offender transferred back to the Division of Correction.

SECTION 7. Arkansas Code § 16-93-614(c)(2)(D), concerning the parole eligibility of a person who committed certain felony offenses after January 1, 1994, is amended to read as follows:

(D) The offender shall not be transported to the Division of Correction on the initial placement in a Division of Community Correction facility pursuant to a judicial or administrative transfer.

SECTION 8. Arkansas Code § 16-93-614(c)(2)(F), concerning the parole eligibility of a person who committed certain felony offenses after July 31, 2007, is amended to read as follows:

(F) An offender who is sentenced after July 31, 2007, and who is transferred back to the Division of Correction for administrative reasons is eligible for transfer to Division of Community Correction supervision in the same manner as an offender who is sentenced to the Division of Correction without a judicial or administrative transfer to the Division of Community Correction; and

**APPROVED: 2/2/21**