

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

SENATE BILL 129

By: Senator D. Johnson
By: Representative Vines

For An Act To Be Entitled

AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 12 OF THE ARKANSAS CODE CONCERNING LAW ENFORCEMENT, EMERGENCY MANAGEMENT, AND MILITARY AFFAIRS; TO MAKE A TECHNICAL CORRECTION TO TITLE 20 CONCERNING A REFERENCE TO TITLE 12; AND FOR OTHER PURPOSES.

Subtitle

TO MAKE TECHNICAL CORRECTIONS TO TITLE 12 OF THE ARKANSAS CODE CONCERNING LAW ENFORCEMENT, EMERGENCY MANAGEMENT, AND MILITARY AFFAIRS; AND TO MAKE A TECHNICAL CORRECTION TO TITLE 20 CONCERNING A REFERENCE TO TITLE 12.

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

SECTION 1. Arkansas Code § 12-15-202(a) is amended to read as follows to correct omitted references:

(a) Any certified law enforcement officer, auxiliary law enforcement officer acting as an auxiliary law enforcement officer, employee of a local detention facility, prosecuting attorney, or deputy prosecuting attorney designated by the prosecuting attorney may carry a concealed handgun if ~~that~~ the certified law enforcement officer, auxiliary law enforcement officer acting as an auxiliary law enforcement officer, employee of a local detention facility, prosecuting attorney, or deputy prosecuting attorney designated by the prosecuting attorney:



(1) Is presently in the employ of a public law enforcement department, office, or agency;

(2) Is authorized by the public law enforcement department, office, or agency to carry a firearm in the course and scope of his or her duties;

(3) Is not subject to any disciplinary action that suspends his or her authority as a ~~law enforcement officer or employee of a local detention facility by the public law enforcement department, office, or agency~~ certified law enforcement officer, auxiliary law enforcement officer acting as an auxiliary law enforcement officer, employee of a local detention facility, prosecuting attorney, or deputy prosecuting attorney designated by the prosecuting attorney;

(4) Is carrying a badge and appropriate written photographic identification issued by the public law enforcement department, office, or agency identifying him or her as a certified law enforcement officer, auxiliary law enforcement officer acting as an auxiliary law enforcement officer, employee of a local detention facility, prosecuting attorney, or deputy prosecuting attorney designated by the prosecuting attorney;

(5) Is not otherwise prohibited under federal law;

(6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(7) Has fingerprint impressions on file with the Department of Arkansas State Police Automated Fingerprint Identification System.

SECTION 2. Arkansas Code § 12-18-604 is amended to read as follows to remove language being codified in another section and to conform usage:

12-18-604. Services during the investigation.

~~(a)~~ The Department of Human Services ~~shall have the authority to~~ may make referrals or provide services during the course of the child maltreatment investigation.

~~(b)(1)~~ ~~The Department of Human Services may petition a circuit court to allow an investigator to access the controlled substance database.~~

~~(2)~~ ~~The court may grant a petition under this subsection if the Department of Human Services demonstrated probable cause that:~~

~~(A) The person has one (1) or more prescription drugs; and~~

~~(B) The baby or the person tested positive for~~

~~prescription drugs at the time of the birth of the baby.~~

SECTION 3. Arkansas Code Title 12, Chapter 18, Subchapter 6, is amended to add an additional section to read as follows to codify a new section and clarify language being removed from Arkansas Code § 12-18-604:

12-18-621. Access to the controlled substance database.

(a) The Department of Human Services may petition a circuit court to allow an investigator to access the controlled substance database under the Prescription Drug Monitoring Program Act, § 20-7-601 et seq., for a record concerning a person.

(b) The circuit court may grant a petition under this section if the department demonstrates probable cause that:

(1) The person was or is in possession of one (1) or more prescription drugs;

(2) The person gave birth to a baby; and

(3) The person or the baby tested positive for one (1) or more prescription drugs at the time of the birth of the baby.

SECTION 4. Arkansas Code § 12-29-504 is amended to read as follows to clarify references and conform usage.

12-29-504. Reimbursement proceedings – Appointment of guardian.

(a)(1) When a person is admitted to an institution of the Department of Correction as a ~~prisoner~~ an inmate or the Department of Community Correction as a resident of a community correction facility, the Attorney General shall petition the ~~circuit court of~~ Pulaski County Circuit Court or the prosecuting attorney of the county from which the ~~person~~ inmate or resident was sentenced shall petition the circuit court of the county from which the person was sentenced if the ~~person or prisoner~~ inmate or resident possesses any estate or becomes possessed of any estate while he or she ~~remains in~~ is in the institution or community correction facility.

(2) The petition shall:

(A) State that the person is a ~~prisoner in a penal facility of the Department of Correction or a resident of a facility operated by the Department of Community Correction~~ an inmate at an institution of the Department of Correction or a resident of a community correction facility of the Department of Community Correction;

(B) State that the Attorney General or prosecuting attorney has good reason to believe and does believe that the ~~prisoner~~ inmate or resident has an estate;

(C) Pray for the appointment of a guardian of the person if a guardian has not already been appointed; and

(D) Pray that the estate may be subjected to payment to the state of the expenses paid and to be paid by the state on behalf of the ~~person~~ inmate or resident as a ~~prisoner~~ an inmate or resident.

(b)(1) The circuit court shall then issue a citation to show cause why the prayer of the petitioner should not be granted.

(2) If the ~~prisoner of the Department of Correction or resident of a facility operated by the Department of Community Correction~~ inmate or resident has a guardian, the petition shall be served upon the guardian.

(3) If the ~~prisoner of the Department of Correction or resident of a facility operated by the Department of Community Correction~~ has no the inmate or resident does not have a guardian, the petition shall be served at least fourteen (14) days before the date of the hearing upon the ~~prisoner or resident of a facility operated by the Department of Community Correction~~ inmate or resident by delivering a copy personally or by registered mail to the warden or head of the ~~penal~~ institution where the ~~prisoner is being detained~~ person is an inmate or, if the person is a resident of a community correction facility ~~operated by~~ of the Department of Community Correction, to the Director of the Department of Community Correction, ~~at least fourteen (14) days before the date of the hearing.~~

(4) The circuit court may appoint a guardian of the person ~~or prisoner.~~

(c)(1)(A) At the time of the hearing, if it appears that the ~~person or prisoner~~ inmate or resident has an estate that ~~ought to be~~ is subject to the claim of the state, without further notice the circuit court, ~~without further notice,~~ shall appoint a guardian of the person and estate of the ~~prisoner~~ inmate or resident if the circuit court ~~deems one~~ determines a guardian is necessary for the protection of the rights of all parties concerned.

(B)(i) The circuit court shall make an order requiring the guardian or any person or corporation possessing the estate belonging to the ~~prisoner of the Department of Correction or a resident of a facility operated by the Department of Community Correction~~ inmate or resident to appropriate

and apply the estate or part of the estate as appropriate toward reimbursing the state, to the payment of the expenses so far incurred by the state on behalf of the ~~prisoner~~ inmate or resident and a part of the estate toward reimbursing the state for the future expenses that it must pay on the ~~prisoner's~~ inmate's or resident's behalf.

(ii) ~~This~~ The reimbursement under subdivision (c)(1)(B)(i) of this section shall not be in excess of the per capita cost of maintaining ~~prisoners~~ inmates or residents in the institution or community correction facility in which he or she is an inmate or resident.

(2)(A) However, before issuing any order under this subchapter providing for payments from the estate of the ~~prisoner~~ inmate or resident for his or her cost of care while confined to an institution of the Department of Correction or community correction facility of the Department of Community Correction, the circuit court shall take into consideration and make allowances for the maintenance and support of the spouse, dependent children, or other persons having a moral or legal right to support and maintenance out of the estate of the ~~prisoner~~ inmate or resident.

(B) The circuit court shall take ~~those~~ the factors under subdivision (c)(2)(A) of this section into consideration in determining the amount to be paid, if any, from the estate of the ~~prisoner~~ inmate or resident for his or her cost of care at the Department of Correction or the Department of Community Correction.

(d)(1) If a guardian, person, or corporation neglects or refuses to comply with the order, the circuit court shall cite ~~him or her~~ the guardian, person, or corporation to appear before the circuit court at a time as it may direct and to show cause why ~~he or she~~ the guardian, person, or corporation should not be sentenced for contempt of court.

(2) As an additional remedy, the Attorney General or prosecuting attorney may enforce payment of the sums provided in the original order by a proper action in the name of the state.

(3) If, in the opinion of the court, the estate of the ~~prisoner~~ inmate or resident is sufficient to pay the cost of the proceedings under this section, the estate shall be made liable for the cost of the proceedings by order of the circuit court.

(e)(1) The proceedings provided for by this section may be begun at any time after admittance of the person to a ~~penal~~ facility of the Department

of Correction as an inmate or to a community correction facility of the Department of Community Correction as a resident.

(2) Recovery may be had for the expenses incurred on behalf of a ~~person or prisoner~~ an inmate or resident during the entire period the person ~~has been confined as a prisoner in a penal~~ is an inmate at a facility of the Department of Correction or a resident of a community correction facility of the Department of Community Correction.

SECTION 5. Arkansas Code § 20-7-606(b)(2)(D)(ii) is amended to read as follows to correct a reference.

(ii) The Department of Human Services has obtained a circuit court order to access the database under § ~~12-18-604~~ 12-18-621.

SECTION 6. DO NOT CODIFY. The enactment and adoption of this act shall not repeal, expressly or impliedly, the acts passed at the regular session of the Ninetieth General Assembly. All such acts shall have full force and effect and, so far as those acts intentionally vary from or conflict with any provision contained in this act, those acts shall have the effect of subsequent acts and as amending or repealing the appropriate parts of the Arkansas Code of 1987.