

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

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1165

By: Representative A. Davis

By: Senator Hester

For An Act To Be Entitled

AN ACT TO CREATE THE TRANSFORMATION AND EFFICIENCIES ACT OF 2019; TO ESTABLISH CABINET-LEVEL DEPARTMENTS; TO ESTABLISH THE CABINET-LEVEL DEPARTMENT OF THE MILITARY; TO TRANSFER VARIOUS STATE AGENCIES; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE TRANSFORMATION AND EFFICIENCIES ACT OF 2019; TO ESTABLISH CABINET-LEVEL DEPARTMENTS; TO ESTABLISH THE CABINET-LEVEL DEPARTMENT OF THE MILITARY; TO TRANSFER VARIOUS STATE AGENCIES; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 12 – Department of the Military

25-43-1201. Department of the Military – Creation.

There is created the Department of the Military as a cabinet-level department.

25-43-1202. State entities transferred to the Department of the Military.



(a) The administrative functions of the following state entities are transferred to the Department of the Military pursuant to a cabinet-level department transfer:

- (1) The Bureau of War Records, created under § 12-61-123; and
- (2) The State Military Department, created under the Acts 1929, No 85, and established as an independent agency by Acts 1981, No. 45 §4.

(b) Each entity transferred shall retain its specified statutory duties.

(c) The State Military Department shall be known as the Department of the Military.

25-43-1203. Secretary of the Department of Military.

(a) The executive head of the Department of the Military shall be the Secretary of the Department of the Military.

(b) The secretary shall be employed by the Governor and shall serve at the pleasure of the Governor.

(c) The secretary shall also be the Adjutant General of the Department of the Military and shall meet all of the qualifications to hold that position.

(d) The secretary may perform all duties to administer the Department of the Military, including without limitation:

(1) Delegate to the employees of the Department of the Military any of the powers or duties of the department required to administer the:

- (A) Statutory duties; or
- (B) Rules, orders, or directives promulgated or issued by the state entities transferred to or established within the department;

(2) Hire department personnel; and

(3) Perform or assign duties assigned to the department.

SECTION 2. Arkansas Code § 6-60-214(h)(2), concerning tuition benefits for soldiers and airmen of the Arkansas National Guard, is amended to read as follows:

(2) ~~The State Military Department~~ Department of the Military and the Department of Higher Education shall meet regularly to monitor and measure the success of this section, including without limitation to assess graduation rates of the soldiers and airmen under this section.

SECTION 3. Arkansas Code § 12-61-106(a), concerning the powers and duties of the Adjutant General, is amended to read as follows:

(a) In addition to being a state staff officer, the Adjutant General shall be the Chief-of-Staff to the Commander-in-Chief and the ~~administrative head of the Military Department~~ Secretary of the Department of Military.

SECTION 4. Arkansas Code § 12-61-107(b)(2), concerning the employment of personnel, is amended to read as follows:

(2) This subsection shall only apply to a person who begins employment with the State Military Department after August 12, 2005 and with the Department of the Military after July 1, 2019.

SECTION 5. Arkansas Code § 12-61-121(a)(3), concerning awards and medals for exceptional or meritorious service, is amended to read as follows:

(3) The ~~State Military Department~~ Department of the Military is authorized to promulgate necessary rules and regulations to establish the criteria under which any medal, ribbon, or decoration may be awarded.

SECTION 6. Arkansas Code § 12-61-124 is amended to read as follows:

12-61-124. ~~Civilian juvenile student training programs~~ National Guard Youth Challenge Program.

(a) The Adjutant General may, at his or her discretion and with such funds as may be appropriated by the General Assembly, or with such funds as may be provided by the United States, develop and implement ~~civilian juvenile student training programs~~ a National Guard Youth Challenge Program for the purpose of providing training, education, health, welfare, rehabilitative, and other services to juveniles.

(b) The Adjutant General is authorized to enter into agreements, contracts, and memoranda of understanding with other state, federal, and local agencies, other persons, firms, and corporations, ~~and the juvenile courts of this state~~ for the purposes of providing training, education, health, welfare, rehabilitative, and other services to juveniles participating in ~~such programs~~ this program.

(c) The Adjutant General may promulgate and issue such rules, regulations, and other guidelines as may be necessary and proper to carry out

the purposes and provisions of this section.

~~(d)(1) Juvenile participants in the Civilian Student Training Program receiving services from the Arkansas National Guard are authorized to receive a monetary stipend, not to exceed ten dollars (\$10.00) per week to defray personal hygiene and other personal necessities. Juvenile participants are authorized to receive uniforms and clothing items as determined by the staff to be appropriate for effective participation in outdoor activities.~~

~~(2) Transportation to support Civilian Student Training Program activities for juvenile participants and staff may be provided by commercial lease/purchase of motor vehicles not to exceed six (6) vehicles.~~

SECTION 7. Arkansas Code § 12-61-127 is repealed.

~~12-61-127. Civilian Student Training Program—Stipend.~~

~~(a) Juvenile participants in the Civilian Student Training Program at Camp Joseph T. Robinson receiving services from the Arkansas National Guard are authorized to receive a monetary stipend, not to exceed ten dollars (\$10.00) per week to defray personal hygiene and other personal necessities.~~

~~(b) Juvenile participants are authorized to receive uniforms and clothing items as determined by the staff to be appropriate for effective participation in outdoor activities.~~

SECTION 8. Arkansas Code § 12-61-128 is repealed.

~~12-61-128. Civilian Student Training Program—Transportation.~~

~~Transportation to support Civilian Student Training Program activities for juvenile participants and staff may be provided by commercial lease or purchase of motor vehicles not to exceed six (6) vehicles.~~

SECTION 9. Arkansas Code § 12-63-209(a), concerning the penalty for criminal trespass upon a military reservation, is amended to read as follows:

(a) A person commits the offense of criminal trespass upon a military reservation if he or she purposefully, and without authority, enters upon or remains unlawfully upon any military reservation, military armory, or other military building or property owned, leased, licensed, operated, occupied, maintained, or under the control or management of the State of Arkansas under the control and management of the ~~State Military Department~~ Department of the Military.

SECTION 10. Arkansas Code § 12-63-406(b)(4), concerning the tax exemption for canteen inventory and sales, is amended to read as follows:

(4) Full-time employees of the ~~State Military Department~~
Department of the Military;

SECTION 11. Arkansas Code § 12-63-407(d)(2)(B), concerning the Camp Joseph T. Robinson and Fort Chaffee canteens, is amended to read as follows:

(B) Full-time employees of the ~~Arkansas Department~~
Department of the Military and United States Department of Defense;

SECTION 12. Arkansas Code § 12-64-110 is amended to read as follows:

12-64-110. Appropriations – ~~State Military Department~~ Department of the Military Fund Account.

(a) There shall be appropriated annually, for the ~~military department~~
Department of the Military, the sum of twenty thousand dollars (\$20,000) for the State Judge Advocate to pay for the administration of military justice.

(b) For the foregoing purposes, there is created in the State Treasury a fund to be designated the ~~State Military Department~~ Department of the Military Fund Account-Military Justice Fund, from which expenses of military justice shall be paid in the amounts and manner prescribed by law.

SECTION 13. Arkansas Code § 12-64-518(e), concerning the issuance of process and subpoenas, is amended to read as follows:

(e) Any sheriff, constable, jailer, marshal, or other civil officer named in this code, who shall neglect or refuse to obey, execute, or return the lawful warrant or other process of a military court or make a false return thereon, shall be guilty of a misdemeanor and in addition to the penalties attaching thereto, shall forfeit fifty dollars (\$50.00) for each offense or neglect of duty, the money to be recovered in a civil action against the officer and his or her official sureties by the Attorney General for the benefit of the ~~State Military Department~~ Department of the Military Fund.

SECTION 14. Arkansas Code § 12-64-609(c)(1), concerning fines and forfeitures, is amended to read as follows:

(c)(1) Notwithstanding any other law, a fine or penalty imposed by a military court upon an officer or enlistee shall be paid by the officer collecting it within thirty (30) days to the Treasurer of State ~~of Arkansas~~ and shall become a part of, be credited to, and be spent from, the ~~State Military Department~~ Department of the Military Fund.

SECTION 15. Arkansas Code § 12-64-610 is amended to read as follows:
12-64-610. Delinquent fines or forfeitures.

(a)(1) When a fine or forfeiture is delinquent for a period of ninety (90) days or more, the ~~State Military Department~~ Department of the Military shall have a cause of action against the person and property liable for the delinquent portion of the fine or forfeiture, costs of collection, penalties, and interest to which the ~~State Military Department~~ Department of the Military is entitled, plus a reasonable attorney's fee.

(2) The ~~State Military Department~~ Department of the Military shall have a lien on all property subject to forfeiture.

(b) The action shall be brought in the Pulaski County Circuit Court.

(c) The judgment awarded the ~~State Military Department~~ Department of the Military under this section shall be enforceable to the same extent and in the same manner as other civil judgments.

SECTION 16. Arkansas Code § 17-105-106(4), exemption from licensure of a physician assistant, is amended to read as follows:

(4) A physician assistant in the service of the ~~State Military Department~~ Department of the Military or the Arkansas National Guard, or both. These physician assistants shall be allowed to perform their physician assistant practice duties, including prescribing, in the same manner as they would if federalized by the United States Government;

SECTION 17. Arkansas Code § 19-5-302(2), concerning the State General Government Fund, is amended to read as follows:

(2)~~State Military Department~~ Department of the Military Fund Account.

(A) The ~~State Military Department~~ Department of the Military Fund Account shall be used for the maintenance, operation, and improvement of the ~~State Military Department~~ Department of the Military

required in carrying out the powers, functions, and duties as set out in the Military Code of Arkansas, § 12-60-101 et seq., or other duties imposed by law upon the State Militia, ~~State Military Department~~ Department of the Military, and the Arkansas Wing of the Civil Air Patrol, which was separated from the Department of Public Safety [abolished] by Acts 1981, No. 45, §§ 4 and 5.

(B) The ~~State Military Department~~ Department of the Military Fund Account shall consist of:

(i) Those general revenues as may be provided by law;

(ii) Nonrevenue income derived from services provided by the ~~State Military Department~~ Department of the Military; and

(iii) Any other funds as may be provided by law.

(C) Federal reimbursement funds received on account of eligible expenditures by the State Militia or the ~~State Military Department~~ Department of the Military shall be deposited into the Special Military Fund established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, there to be used as may be provided by law;

SECTION 18. Arkansas Code § 19-5-501(b)(3), concerning the Budget Stabilization Trust Fund, is amended to read as follows:

(3) Making transfers to the ~~State Military Department~~ Department of the Military Fund Account of the State General Government Fund as established in § 19-5-302(2)(A)-(C) for the purpose of providing reimbursement or immediate funding for expenses incurred by the ~~State Military Department~~ Department of the Military on behalf of the Arkansas National Guard emergency call-up appropriation;

SECTION 19. Arkansas Code § 19-5-905(a)(11)(B), concerning the Securities Reserve Fund, is amended to read as follows:

(B) The ~~State Military Department~~ Department of the Military Fund Account under § 19-5-501(b)(3);

SECTION 20. Arkansas Code § 19-5-1007 is amended to read as follows:
19-5-1007. Special Military Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Special Military Fund".

(b) The Special Military Fund is to consist of federal reimbursement received on account of eligible expenditures by the ~~State Military Department~~ Department of the Military and shall be used to provide funding wholly or partially for appropriations made payable from the Special Military Fund and to provide supplemental support, to the extent necessary, to the ~~State Military Department~~ Department of the Military Fund Account of the State General Government Fund, there to be used solely for the programs of the department.

SECTION 21. Arkansas Code § 19-5-1095(b)(1)(B), concerning the Military Support Revolving Fund, is amended to read as follows:

(B) All moneys received by the ~~State Military Department~~ Department of the Military from the United States Army, the United States Air Force, the United States Navy, foreign allied governments, and reserve forces of the United States, allied nations, and other federal agencies.

SECTION 22. Arkansas Code § 19-10-204(b)(1)(A)(iii)(a), concerning the jurisdiction of the Arkansas State Claims Commission, is amended to read as follows:

(a) A claim by a member of the uniformed armed services against the ~~State Military Department~~ Department of the Military, the State militia, or any subdivision thereof, if the claim arises out of the performance of the claimant's military duty;

SECTION 23. Arkansas Code § 21-4-204(a)(2), concerning the accrual and use of annual leave, is amended to read as follows:

(2) Each fire and emergency service employee of the ~~State Military Department~~ Department of the Military who works a regularly scheduled shift of more than forty-seven (47) hours per week is entitled to annual leave with full pay computed on the basis of the following schedule for each complete month of service:

Through 3 years 1 day and 4 hours per month 3 through 5 years 1 day
and 7 hours per month 5 through 12 years 2 days per month 12 through 20

years 2 days and 3 hours per month Over 20 years 2 days and 5 hours per month

SECTION 24. Arkansas Code § 21-4-207(a)(1)(B), concerning the accrual and use of sick leave, is amended to read as follows:

(B) Each fire and emergency service employee of the ~~State Military Department~~ Department of the Military who works a regularly scheduled shift of more than forty-seven (47) hours per week is entitled to sick leave with full pay computed on the basis of one (1) day and four (4) hours for each complete month of service.

SECTION 25. Arkansas Code § 24-4-101(34)(B)(i)(b), concerning the definition of "public safety member" under the laws of the Arkansas Public Employees' Retirement System, is amended to read as follows:

(b) "Police officer" includes a wildlife officer of the Arkansas State Game and Fish Commission, a drug enforcement officer of a judicial drug taskforce, a civilian firefighter of the ~~State Military Department~~ Department of the Military covered under § 24-4-1004, and all officers and the Chief of the State Capitol Police within the office of the Secretary of State.

SECTION 26 Arkansas Code § 24-4-1004(a), concerning determination of benefits for civilian firefighters of the State Military Department, is amended to read as follows:

(a) For purposes of determining benefits under this chapter, all credited service, whenever earned, of persons employed as civilian firefighters of the ~~State Military Department~~ Department of the Military as of July 1, 1997, and of persons thereafter employed in those positions shall be treated as public safety member service if the position is one hundred percent (100%) federally funded.

SECTION 27. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the provisions of this act should become effective at

the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.