

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

State of Arkansas
95th General Assembly
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As Engrossed: S4/1/25

A Bill

SENATE BILL 539

By: Senator Gilmore
By: Representative Gazaway

For An Act To Be Entitled

AN ACT TO UPDATE AND CLARIFY CERTAIN PORTIONS OF THE LAW REGARDING THE DIVISION OF COMMUNITY CORRECTION AND THE DIVISION OF CORRECTION; TO CLARIFY REFERENCES TO COMMUNITY CORRECTION CENTERS; TO TRANSFER SEX OFFENDER COMMUNITY NOTIFICATION ASSESSMENTS TO THE DEPARTMENT OF CORRECTIONS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO UPDATE AND CLARIFY CERTAIN PORTIONS OF THE LAW REGARDING THE DIVISION OF COMMUNITY CORRECTION AND THE DIVISION OF CORRECTION; TO CLARIFY REFERENCES TO COMMUNITY CORRECTION CENTERS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 5-4-304(c)(1), concerning confinement as a condition of a suspended sentence or probation, is amended to read as follows:

(c)(1)(A) The period actually spent in confinement pursuant to this section in a county jail, city jail, or other authorized local detention, correctional, or rehabilitative facility shall not exceed:

(i) One hundred twenty (120) days in the case of a felony; or

(ii) Thirty (30) days in the case of a misdemeanor.



(B) In the case of confinement to a ~~facility in the Division of Community Correction~~ community correction center operated or contracted by a division of the Department of Corrections, the period actually spent in confinement under this section shall not exceed three hundred sixty-five (365) days.

SECTION 2. Arkansas Code § 5-4-312(b), concerning placement in a community correction program, is amended to read as follows:

(b) Upon a preliminary determination by a court that a defendant is an eligible offender and that placement in a community correction program under § 16-93-1201 et seq. is proper, the court may:

(1)(A) Suspend the imposition of the sentence or place the defendant on probation, under § 5-4-104, § 5-4-201 et seq., §§ 5-4-301 – 5-4-307, and § 16-93-314.

(B) A sentence under subdivision (b)(1)(A) of this section may be accompanied by assignment to a community correction program under § 16-93-1201 et seq. for a designated period of time commensurate with the goals of the community correction program assignment and the rules established by the Board of Corrections for the operation of community correction programs.

(C) The court shall maintain jurisdiction over the defendant sentenced under subdivision (b)(1)(A) of this section with supervision outside the confines of the specific programming provided by probation officers assigned to the court.

(D)(i) If a person sentenced under subdivision (b)(1)(A) of this section violates any term or condition of his or her sentence or term of probation, revocation of the sentence or term of probation shall be consistent with the procedures established by law for the revocation of suspended imposition of sentence or probation.

(ii) Upon revocation as described in subdivision (b)(1)(D)(i) of this section, the court shall determine whether the defendant shall remain under the jurisdiction of the court and be assigned to a more restrictive community correction program, facility, or institution for a period of time or committed to ~~the Division of Correction~~, a secured facility operated or contracted by a division of the Department of Corrections;

~~(iii) If the defendant is committed to the Division~~

~~of Correction under subdivision (b)(1)(D)(ii) of this section, the court shall specify if the commitment is for judicial transfer of the defendant to the Division of Community Correction or is a commitment to the Division of Correction;~~

(2)(A) Commit the defendant to the custody of the Division of Correction for judicial transfer to ~~the Division of Community Correction~~ a community correction center operated or contracted by a division of the department subject to the following:

(i) That the sentence imposed provides that the defendant shall not serve more than three (3) years of confinement, with credit for meritorious good time or earned release credits, with initial placement in a ~~Division of Community Correction facility~~ community correction center operated or contracted by a division of the department; and

(ii) That the preliminary placement in ~~the Division of Community Correction facility~~ a community correction center operated or contracted by a division of the department is conditioned upon the ~~Division of Community Correction's~~ department's final determination of the defendant's initial and continuing eligibility for ~~Division of Community Correction~~ community correction center placement and the defendant's compliance with all applicable rules established by the Board of Corrections for community correction programs.

(B) Post-prison supervision of the defendant shall accompany and follow the community correction program when appropriate; or

(3)(A) Sentence the defendant to the Division of Correction, granting the Division of Correction the ability to administratively transfer the defendant to ~~the Division of Community Correction~~ a community correction center operated or contracted by a division of the department if the Division of Correction determines that the sentence imposed meets the eligibility requirements for placement in a community correction program under this subchapter and § 16-93-1201 et seq.

(B) Administrative transfer to ~~the Division of Community Correction~~ a community correction center operated or contracted by a division of the department under subdivision (b)(3)(A) of this section is conditioned upon bed space availability and upon the ~~Division of Community Correction's~~ department's final determination of the defendant's initial and continuing eligibility for ~~Division of Community Correction~~ community correction center

placement.

(C) A determination of ineligibility under subdivision (b)(3)(B) of this section by the ~~Division of Community Correction~~ department shall result in the immediate ~~return~~ removal of the defendant ~~to the Division of Correction~~ from the community correction center.

(D) A decision to release a defendant administratively transferred to ~~the Division of Community Correction~~ a community correction center from the ~~Division of Correction~~ under subdivision (b)(3)(A) of this section is vested solely with the Post-Prison Transfer Board.

SECTION 3. Arkansas Code § 5-4-312(d)(1), concerning a defendant not eligible for placement in a community correction program, is amended to read as follows:

(d)(1) If after receipt of an order directing a defendant to a community correction center, the ~~Division of Community Correction~~ department determines that the defendant is not eligible for placement in a community correction program under § 16-93-1201 et seq., the ~~Division of Community Correction~~ department shall not admit the defendant to the community correction center but shall immediately notify the prosecuting attorney in writing.

SECTION 4. Arkansas Code § 12-12-911(b)(1), concerning the Sex and Child Offenders Registration Fund, is amended to read as follows:

(b)(1) This fund shall consist of special revenues collected pursuant to § 12-12-910, there to be used equally by the Arkansas Crime Information Center and the ~~Division of Correction~~ Department of Corrections for the administration of this subchapter.

SECTION 5. Arkansas Code § 12-12-913(c) and (d), concerning the disclosure of sex offender registration records, are amended to read as follows:

(c)(1)(A) The Sex Offender Assessment Committee shall promulgate guidelines and procedures for the disclosure of relevant and necessary information regarding sex offenders to the public when the release of the information is necessary for public protection.

(B) In developing the guidelines and procedures, the Sex

Offender Assessment Committee shall consult with persons who, by experience or training, have a personal interest or professional expertise in law enforcement, crime prevention, victim advocacy, criminology, psychology, parole, post-release supervision, public education, and community relations.

(2)(A) The guidelines and procedures shall identify factors relevant to a sex offender's future dangerousness and likelihood of reoffense or threat to the community.

(B) The guidelines and procedures shall also address the extent of the information to be disclosed and the scope of the community to whom disclosure shall be made as these factors relate to the:

- (i) Level of the sex offender's dangerousness;
- (ii) Sex offender's pattern of offending behavior;

and

(iii) Need of community members for information to enhance their individual and collective safety.

(3) The Sex Offender Assessment Committee shall submit the proposed guidelines and procedures to the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor for their review ~~and shall report to the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor every six (6) months on the implementation of this section.~~

(d)(1) A local law enforcement agency having jurisdiction that decides to disclose information pursuant to this section shall make a good faith effort to notify the public and residents at least fourteen (14) days before a sex offender is released or placed into the community.

(2) If a change occurs in a sex offender's release plan, this notification provision shall not require an extension of the release date.

(3) In conjunction with the notice provided under § 12-12-914, the ~~Division of Correction~~ Department of Corrections and the Department of Human Services shall make available to a local law enforcement agency having jurisdiction all information that the ~~Division of Correction~~ Department of corrections and the Department of Human Services have concerning the sex offender, including information on risk factors in the sex offender's history.

SECTION 6. Arkansas Code § 12-12-917(g)(1), concerning the assessment of a sex offender, is amended to read as follows:

(g)(1) In cooperation with the committee, the ~~Division of Correction~~ Department of Corrections shall promulgate rules to establish the review process for assessment determinations.

SECTION 7. Arkansas Code § 12-12-918(b)(2), concerning the evaluation to determine that a defendant is a sexually dangerous person, is amended to read as follows:

(2) The cost of the evaluation shall be paid by the ~~Division of Correction~~ Department of Corrections.

SECTION 8. Arkansas Code § 12-27-113 is amended to read as follows:

12-27-113. Commitments to the Division of Correction – Records.

(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~~ a community correction center operated or contracted by a division of the Department of Corrections.

(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~~ a community correction center operated or contracted by a division of the department, pursuant to a judicial transfer, determine the administrative transfer of an inmate to ~~the Division of Community Correction~~ a community correction center operated or contracted by a division of the department, 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~~ secured facilities operated or contracted by a division of the department within the constraints of law applicable to judicial or administrative transfer, subject to the policies and rules established by the Board of Corrections and conditions set by the Post-Prison Transfer Board.

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

(c)(1) When a prisoner is committed to the Division of Correction, his or her commitment papers must include a report on the circumstances attending the offense, particularly such circumstances as tend to aggravate or extenuate the offense, which report shall be kept in the permanent file of such prisoner.

(2) The report shall be prepared by the prosecutor or deputy prosecutor who represented the state in the proceeding against the prisoner. The report shall be approved by the sentencing judge.

(d)(1) A county sheriff, a deputy county sheriff, or a trained security contractor shall transport all inmates committed to ~~the Division of Correction or the Division of Community Correction~~ a secured facility operated or contracted by a division of the department as described in this subsection, and the county sheriff is entitled to the fees provided by law.

(2) A county sheriff shall notify the director of the number of inmates in his or her charge who are under commitment to ~~the Division of Correction~~ a secured facility operated or contracted by a division of the department, and upon request to the county sheriff by the director, the county sheriff, the deputy county sheriff, or the trained security contractor shall send for, take charge of, and safely transport the inmates to the nearest appropriate secured facility as determined by the Division of Correction or the Division of Community Correction.

(3) However, if the county sheriff determines that it would be in the best interest of an inmate and the public to immediately transport the inmate to the Division of Correction or the Division of Community Correction because of overcrowding or another issue, the county sheriff may notify the Division of Correction or the Division of Community Correction of the need *for immediate transport and the* ~~Division of Correction or the Division of Community Correction~~ department *shall consider the request in scheduling inmates for intake.*

(e)(1) The director shall make and preserve a full and complete record *of every inmate committed to* ~~the Division of Correction~~ a secured facility operated or contracted by a division of the department, *along with a* photograph of the inmate and data pertaining to his or her trial conviction and past history.

(2)(A) To protect the integrity of records described in subdivision (e)(1) of this section and to ensure their proper use, it is unlawful to permit inspection of or disclose information contained in records described in subdivision (e)(1) of this section or to copy or issue a copy of all or part of a record described in subdivision (e)(1) of this section except:

(i) As authorized by rule;

(ii) By order of a court of competent jurisdiction;

or

(iii) Records posted on the Division of Correction's website as required by § 12-27-145.

(B) A rule under subdivision (e)(2)(A) of this section shall provide for adequate standards of security and confidentiality of records described in subdivision (e)(1) of this section.

~~(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.~~

~~(4)(3)~~ A rule under subdivision (e)(2)(A) of this section may authorize the disclosure of information contained in a record described in subdivision (e)(1) of this section for research purposes.

~~(5)(4)(A)(i)~~ Upon written request, an employee of the Bureau of Legislative Research acting on behalf of a member of the General Assembly may view all records described in subdivision (e)(1) of this section of a current or former inmate.

(ii) A request under subdivision ~~(e)(5)(A)(i)~~ (e)(4)(A)(i) of this section shall be made in good faith.

(B) A view of records under this subdivision ~~(e)(5)~~ (e)(4) by an employee may be performed only if the employee is assigned to one (1) or more of the following committees:

(i) Senate Committee on Judiciary;

(ii) House Committee on Judiciary; or

(iii) Charitable, Penal, and Correctional Institutions Subcommittee of the Legislative Council.

(C) The ~~Division of Correction~~ Secretary of the Department of Corrections shall ensure that the employee authorized under subdivision ~~(e)(5)(B)~~ (e)(4)(B) of this section to view records is provided access to the records.

(D) A record requested to be viewed under this subdivision ~~(e)(5)~~ (e)(4) is privileged and confidential and shall not be shown to any person not authorized to have access to the record under this section and shall not be used for any political purpose, including without limitation political advertising, fundraising, or campaigning.

SECTION 9. Arkansas Code § 12-27-114 is amended to read as follows:

12-27-114. Inmates in county jails – Reimbursement of county – Medical care.

(a)(1)(A)~~(i)~~ In the event ~~the Division of Correction~~ a division of the Department of Corrections cannot accept inmates from county jails due to insufficient bed space, the ~~Division of Correction~~ department shall reimburse the counties from the County Jail Reimbursement Fund at rates determined by the Chief Fiscal Officer of the State, after consultation with Arkansas Legislative Audit and the ~~Division of Correction~~ department and upon approval by the Governor, until the appropriation and funding provided for that purpose are exhausted.

~~(i)(B)~~ The reimbursement rate shall include the county's cost of transporting the inmates to the ~~Division of Correction~~ division.

~~(B)(i)(2)(A)~~ Reimbursement under subdivision (a)(1)~~(A)~~ of this section shall begin accruing on the date of sentencing.

~~(i)(B)~~ The ~~Division of Correction~~ department shall not reimburse the county until the ~~Division of Correction~~ department receives a complete and accurate sentencing order.

~~(2)(A)~~ ~~In the event the Division of Community Correction cannot accept inmates from county jails due to insufficient bed space or shall have an inmate confined in a county jail under any prerelease program or sanction imposed in response to a violation of supervision conditions, the Division of Community Correction shall reimburse the counties from the fund at rates determined by the Chief Fiscal Officer of the State, after consultation with Arkansas Legislative Audit and the Division of Correction, and upon approval~~

~~by the Governor, until the appropriation and funding provided for that purpose are exhausted.~~

~~(B)(i) Reimbursement under subdivision (a)(2)(A) of this section shall begin accruing on either the date of sentencing or the date of placement on probation accompanied with incarceration in the Division of Community Correction.~~

~~(ii) The Division of Community Correction shall not reimburse the county until the Division of Community Correction receives a complete and accurate sentencing order or an order or waiver for a sanction to a community correction center.~~

(b)(1)(A) The ~~Division of Correction and the Division of Community Correction~~ department shall prepare an invoice during the first week of each month that lists each state inmate that is on the county jail backup list during the previous month.

(B) The invoice shall reflect the number of days a state inmate was in the county jail in an awaiting-bed-space status.

(2)(A) The ~~Division of Correction and the Division of Community Correction~~ department shall verify and forward the invoices to the applicable county sheriff to certify the actual number of days the state inmates were physically housed in the county jail.

(B)(i) Upon written request of a county judge, county treasurer, or county sheriff, the ~~Division of Correction and the Division of Community Correction~~ department shall provide to the county official making the request a written report summarizing the year-to-date county jail reimbursement invoices prepared and forwarded for verification by the ~~Division of Correction and the Division of Community Correction~~ department and payment from the fund.

(ii) In addition, the written report shall include a summary of invoices returned by each county for payment for previous months within the fiscal year, the amounts paid, and any balances owed.

(3)(A) The certified invoices shall then be returned to the ~~Division of Correction and the Division of Community Correction~~ department for payment from the fund.

(B) Payment from the fund shall be made within five (5) business days of receipt of signed and certified invoices returned by each county, subject to funding made available for payment of the certified

notices.

(4) The county sheriff shall maintain documentation for three (3) calendar years to confirm the number of days each state inmate was physically housed in the county jail.

(5) The documentation maintained by the county sheriff is subject to review by Arkansas Legislative Audit.

(6) Invoices under this subsection may be mailed or sent electronically.

(c)(1) The Board of Corrections shall adopt rules by which the ~~Division of Correction or the Division of Community Correction~~ department shall reimburse any county that is required to retain an inmate awaiting delivery to the custody of either the Division of Correction or the Division of Community Correction, upon receipt of a complete and accurate sentencing order or an order or waiver for a sanction to a community correction center, for the actual costs paid for any emergency medical care for physical injury or illness of the inmate retained under this section if the physical injury or illness is directly related to the incarceration and the county is required by law to provide the care for inmates in the jail.

(2) The ~~Director of the Division of Correction or his or her designee or the Director of the Division of Community Correction or his or her designee~~ department may accept custody of any inmate as soon as possible upon request of the county upon determining that the inmate is required to have extended medical care.

(3)(A) Reimbursements for medical expenses under this subsection shall require prior approval of the ~~Division of Correction or the Division of Community Correction~~ department before the rendering of health care.

(B)(i) In a true emergency situation, health care may be rendered without prior approval.

(ii) The ~~Division of Correction or the Division of Community Correction~~ department shall be notified of a true emergency situation immediately after the true emergency situation.

(C)(i) Reimbursements under this subsection begin accruing on the date of sentencing.

(ii) The ~~Division of Correction or Division of Community Correction~~ department shall not reimburse the county under this subsection until the ~~Division of Correction or Division of Community~~

~~Correction~~ department receives a complete and accurate sentencing order or an order or waiver for a sanction to a community correction center.

(d)(1)(A) ~~The Division of Correction and Division of Community Correction~~ department shall prepare a monthly report of county jail reimbursement invoices under this section for payment from the ~~County Jail Reimbursement Fund~~ fund.

(B) The monthly report under subdivision (d)(1)(A) of this section shall:

(i) Be posted on the website of the ~~Division of Correction and the website of the Division of Community Correction~~ department for at least three (3) years; and

(ii) Include a summary of invoices returned by each county for payment for previous months within the fiscal year, the amounts paid, and any balances owed.

(2) The monthly reports under subdivision (d)(1)(A) of this section shall be combined into one (1) annual report at the end of each fiscal year.

SECTION 10. Arkansas Code § 12-27-115 is amended to read as follows:
12-27-115. Claims of counties for expenses – Verification.

(a) When any county in which ~~an institution of the Department of Correction~~ a secured facility operated or contracted by a division of the Department of Corrections is located shall incur expenses in connection with any legal proceedings involved or occasioned by any inmate of ~~a penal institution~~ the secured facility, the county shall be entitled to reimbursement for such expenses ~~from the Department of Correction Fund~~ by the department.

(b) All claims by counties against the fund pursuant to this section shall be itemized, and the claims shall be verified by the county judge and presented to the ~~Director of the Department of Correction~~ department within ninety (90) days after the expense is incurred.

(c) Upon receipt of the verified claims, the ~~director~~ department shall pay the claim ~~from funds appropriated for the maintenance and operation of the department~~.

SECTION 11. Arkansas Code § 12-27-125 is amended to read as follows:

12-27-125. Division of Community Correction – Creation – Powers and duties.

(a) There is established, under the supervision, control, and direction of the Board of Corrections, a Division of Community Correction.

(b) The Division of Community Correction shall have the following functions, powers, and duties, administered in accordance with the policies and rules promulgated by the Board of Corrections:

(1) It shall assume management and control over all properties, both real and personal, facilities, books, records, equipment, supplies, materials, contracts, funds, moneys, equities, and all other properties belonging to the Arkansas Adult Probation Commission [abolished], and all such properties transferred from the Department of Correction, as the Division of Correction was known as prior to July 1, 2019, by the Board of Corrections;

(2)~~(A)~~ It shall have management and control over ~~all~~ community correction services, except management of secured community correction centers;

~~(B) It shall have management and control over all community correction facilities within the purview of the Board of Corrections existing on or created after July 1, 1993;~~

(3) It shall employ such officers, employees, and agents and shall secure such offices and quarters as deemed necessary to discharge the functions of the Division of Community Correction, and which are appropriately funded;

(4) It may establish and operate regional community correction facilities if funds for the regional community correction facilities have been authorized and appropriated by the General Assembly;

(5)(A) It may exercise all legally sanctioned supervision and appropriate care over all offenders referred with proper documentation from the circuit courts and all offenders transferred with proper documentation from the Division of Correction pursuant to policies established by the Board of Corrections and conditions set by the Post-Prison Transfer Board.

(B) Legal custody remains with the referring court or the Division of Correction;

(6) It shall administer the provision of probation services for offenders processed through circuit courts;

(7) It shall administer the provision of parole and post-release supervision services in coordination with the Post-Prison Transfer Board and in cooperation with the Division of Correction;

(8) It shall provide support services to the Post-Prison Transfer Board or its designated representatives as determined by the Post-Prison Transfer Board;

(9) It shall assist the Board of Corrections in the furtherance of its goals by staffing the specific charges articulated for it through legislation and by the Board of Corrections;

(10) It shall conduct statewide public education and training to foster the provision of correctional supervision and service in community settings;

(11) It shall provide technical assistance when necessary to any entity, program, division, or agency receiving assistance or clients through the Division of Community Correction;

(12) It shall facilitate the development of a comprehensive community correction plan through the provision of funding, criteria review, and ongoing evaluation to ensure the maintenance of quality in supervision and programming;

(13) It may accept gifts, grants, and funds from both public and private sources with prior approval of the Board of Corrections;

(14) It shall establish minimum standards for case loads, programs, facilities, and equipment and other aspects of the operation of community correction programs and facilities necessary for the provision of adequate and effective supervision and service;

(15) It shall establish minimum standards for the employment of community correction employees;

~~(16) It shall establish programs of research, evaluation, statistics, audit, and planning, including studies and evaluation of the performance of various functions and activities of the Department of Corrections and studies affecting the treatment of offenders and information about other programs;~~

~~(17)~~(16)(A) It may receive and disburse moneys ordered to be paid by offenders pursuant to statutory economic sanctions.

(B) It may receive fees to be levied by the courts or authorized by the Board of Corrections for participation in specified

programs and to be paid by offenders on community correction.

(C) The payment of such sanctions and fees may be a condition of probation, parole, post-release supervision, or post-prison transfer or attached to admission and participation in a community correction program.

(D) The moneys collected shall be deposited into an earmarked account at the state level to be used solely for the continuation and expansion of community correction in this state.

(E) Economic sanction officers are to be authorized by the Division of Community Correction to perform these duties pursuant to policies and procedures adopted by the Board of Corrections and in accord with any state statutory accounting requirements;

~~(18)~~(17) It may cooperate and contract with the federal government, with governmental agencies of Arkansas and other states, with political subdivisions of Arkansas, and with private contractors to provide and improve community correction options;

~~(19)~~(18) It may inspect and evaluate any community correction site and conduct audits of financial and service records at any reasonable time to determine compliance with the Board of Corrections' rules and standards;

~~(20)~~(19)(A) It shall maintain a full and complete record of each offender under its supervision.

(B)(i) To protect the integrity of a record described in subdivision ~~(b)(20)(A)~~ (b)(19)(A) of this section and to ensure its proper use, it is unlawful to permit inspection of or disclose information contained in a record described in subdivision ~~(b)(20)(A)~~ (b)(19)(A) of this section or to copy or issue a copy of any part of the record except:

- (a) As authorized by administrative rule;
- (b) By order of a court of competent

jurisdiction; or

(c) Records posted on the Division of Community Correction's website as required by § 12-27-145.

(ii) The rules under subdivision ~~(b)(20)(B)(i)(a)~~ (b)(19)(B)(i)(a) shall provide for adequate standards of security and confidentiality of a record described in subdivision ~~(b)(20)(A)~~ (b)(19)(A) of this section; and

~~(21)~~(20) Subject to availability of funds, it shall employ officers, employees, and agents and secure sufficient offices for monitoring each sex offender on parole, post-release supervision, or probation who is required to register under the Sex Offender Registration Act of 1997, § 12-12-901 et seq., and who has been assessed as a risk Level 3 or Level 4 offender; and

~~(22)(A)~~ It may issue an arrest warrant for the arrest of any person who, while in its custody, unlawfully escapes from the Division of Community Correction.

~~(B)~~ The arrest warrant shall authorize:

~~(i)~~ All law enforcement officers of this state to take into custody and return the person named in the arrest warrant to the custody of the Division of Community Correction or the Division of Correction; and

~~(ii)~~ All law enforcement officers of this state, any other state, or the federal government to take into custody and detain the person in a suitable detention facility while awaiting further transfer to the Division of Community Correction or the Division of Correction.

SECTION 12. Arkansas Code § 12-27-127 is amended to read as follows:

12-27-127. Transfer to ~~the Division of Community Correction~~ community correction center – Transfer of an inmate between divisions.

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

(2) However, an inmate may be judicially or administratively transferred to ~~the Division of Community Correction~~ a community correction center by the Division of Correction 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~~ a community correction center in accordance with the rules promulgated by the Board of Corrections.

(b)(1) In accordance with rules and procedures promulgated by the Board of Corrections and the orders of the committing court, the Director of the Division of ~~Community~~ Correction shall assign a newly transferred inmate to an appropriate facility, placement, program, or status within the Division of ~~Community Correction~~ community correction center.

(2) The director may transfer an inmate from one facility, placement, program, or status to another facility, placement, program, or status consistent with the commitment, applicable law, and in accordance with treatment, training, and security needs.

(3)(A) An inmate may be ~~administratively transferred back to the Division of Correction from the Division of Community Correction~~ removed from a community correction center by the Post-Prison Transfer Board following a hearing in which the inmate is found ineligible for placement in a ~~Division of Community Correction facility~~ community correction center as he or she fails to meet the criteria or standards established by law or policy adopted by the Board of Corrections or has been found guilty of a violation of the rules of the facility.

(B) Time served in a community correction facility or under supervision by ~~the Division of Community Correction~~ a community correction center shall be credited against the sentence contained in the commitment to the Division of Correction.

(c)(1) In accordance with rules and procedures promulgated by the Board of Corrections, upon receipt of a referral from the director or his or her designee, the Post-Prison Transfer Board may release from confinement an inmate who has been:

(A) Sentenced and judicially or administratively transferred to ~~the Division of Community Correction~~ a community correction center;

(B) Incarcerated for a minimum of:

(i) One hundred eighty (180) days for a sentence of four (4) years or less; or

(ii) Two hundred seventy (270) days for a sentence of more than four (4) years but less than six (6) years; and

(C) Determined by the ~~Division of Community Correction~~ Secretary of the Department of Corrections to have successfully completed ~~its~~ the therapeutic program prescribed by the secretary.

(2)(A) The General Assembly finds that the power granted to the Post-Prison Transfer Board under subdivision (c)(1) of this section will:

(i) Aid the therapeutic rehabilitation of the inmates judicially or administratively transferred to the Division of Community Correction; and

(ii) More efficiently use the correctional resources of the State of Arkansas.

(B) The power granted to the Post-Prison Transfer Board under subdivision (c)(1) of this section shall be the sole authority required for the accomplishment of the purposes set forth in this subdivision (c)(2), and when the Post-Prison Transfer Board exercises its power under this section, it shall not be necessary for the Post-Prison Transfer Board to comply with general provisions of other laws dealing with the minimum time constraints as applied to release eligibility.

(3) This subsection does not grant the Post-Prison Transfer Board or the ~~Division of Community Correction~~ Department of Corrections the authority either to detain an inmate beyond the sentence imposed upon him or her by a transferring court or to shorten that sentence.

(d)(1) An inmate of the Division of Correction who is to be transferred to post-release supervision may be administratively transferred to the Division of Community Correction when the inmate is within eighteen (18) months of his or her projected release date for the purpose of participating in a reentry program of at least six (6) months in length.

(2) Each inmate administratively transferred under this subsection shall be thoroughly screened and approved for participation by the director or his or her designee.

(3) In accordance with rules promulgated by the Board of Corrections, upon receipt of a referral from the director or his or her designee, the Post-Prison Transfer Board may release from incarceration an inmate who has been:

(A) Administratively transferred to the Division of Community Correction; and

(B) Determined by the Division of Community Correction to have successfully completed its reentry program.

(4) An inmate who has been administratively transferred under this subsection shall be administratively transferred back to the Division of Correction if he or she:

(A) Is denied parole or transfer to post-release supervision; or

(B) Fails to complete or is removed from the reentry program.

SECTION 13. Arkansas Code § 12-29-205(a)(1), concerning good time earned pending transfer to the Division of Correction or Division of Community Correction, is amended to read as follows:

(a)(1) Any person who is sentenced by a circuit court to ~~the Division of Correction or the Division of Community Correction~~ an imposed period of incarceration at a facility operated or contracted by a division of the Department of Corrections and is awaiting transfer to ~~the Division of Correction or Division of Community Correction~~ a facility operated or contracted by a division of the department may earn meritorious good time in accordance with law and rules as adopted by the Board of Corrections.

SECTION 14. Arkansas Code § 16-93-306(d)(3), concerning administrative sanctions for probationers, is amended to read as follows:

(3) Intermediate sanctions shall include without limitation:

(A) Day reporting;

(B) Community service;

(C) *Increased substance abuse screening ~~and~~ or treatment,*
or both;

(D) Increased monitoring, including electronic monitoring and home confinement; and

(E)(i) Incarceration in a county jail for no more than seven (7) days or incarceration in a ~~Division of Community Correction or Division of Correction~~ facility operated or contracted by a division of the department for no more than one hundred eighty (180) days.

(ii)(a) Incarceration as an intermediate sanction shall not be used more than six (6) times with an individual probationer.

(b) A probationer shall accumulate no more than thirty (30) days' incarceration in a county jail or no more than three hundred sixty (360) days' incarceration in a ~~Division of Community Correction or Division of Correction~~ facility operated or contracted by a division of the Department of Corrections as an intermediate sanction before the probation officer recommends a violation of the person's probation under § 16-93-307.

(c) A probationer is subject to a period of incarceration of:

(1) Up to ninety (90) days in a ~~Division of Community Correction or Division of Correction~~ facility operated or contracted by a division of the department for a technical conditions violation; and

(2) Exactly one hundred eighty (180) days in a ~~Division of Community Correction or Division of Correction~~ facility operated or contracted by a division of the department for a serious conditions violation.

(d) A probationer may not be incarcerated more than two (2) times as a probation sanction in a ~~Division of Community Correction or Division of Correction~~ facility operated or contracted by a division of the department during a two-year period.

SECTION 15. Arkansas Code § 16-93-306(g), concerning the period of incarceration for an administrative sanction of a probationer, is amended to read as follows:

(g) A period of incarceration under this section:

(1) May be reduced by ~~the Division of Correction or the Division of Community Correction~~ a division of the department for good behavior and successful program completion; and

(2) Shall not be reduced under this section for more than fifty percent (50%) of the total time of incarceration ordered to be served.

SECTION 16. Arkansas Code § 16-93-308(i)(1)(B), concerning a probation revocation is amended to read as follows:

(B)(i) A defendant on probation is subject to having his or her probation revoked and being sentenced to ~~the Division of Correction or the Division of Community Correction~~ a facility operated or contracted by a division of the Department of Corrections for a subsequent violation of his or her probation if the defendant has been confined six (6) times under § 16-93-306(d).

(ii) After a defendant on probation has been confined two (2) times under either § 16-93-306(d) or § 16-93-309(a)(4) for any combination of a technical conditions violation or serious conditions violation for any period of time, the defendant on probation is subject to having his or her probation revoked and being sentenced to ~~the Division of~~

~~Correction or the Division of Community Correction~~ a facility operated or contracted by a division of the department for a subsequent violation of his or her probation.

SECTION 17. Arkansas Code § 16-93-309(b)(1), concerning a period of confinement imposed by a court on a person who is serving a suspended imposition of sentence or on probation after a revocation hearing, is amended to read as follows:

(b)(1) A period of confinement under subdivision (a)(4) of this section may be reduced by ~~the Division of Correction or the Division of Community Correction~~ a division of the Department of Corrections for good behavior and successful program completion.

SECTION 18. Arkansas Code § 16-93-310 is amended to read as follows:

16-93-310. Probation generally – Revocation – Community correction program.

(a) When a person sentenced under a community correction program, § 5-4-312, violates any terms or conditions of his or her sentence or term of probation, revocation of the sentence or term of probation shall be consistent with the procedures under this subchapter.

(b) Upon revocation, the court of jurisdiction shall determine whether the offender shall remain under the jurisdiction of the court and be assigned to a more restrictive community correction program, facility, or institution for a period of time or committed to ~~the Division of Community Correction~~ a community correction center.

(c)(1) If committed to the Division of Correction, the court shall specify if the commitment is for judicial transfer of the offender to ~~the Division of Community Correction or is a regular commitment~~ a community correction center.

(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~~ a community correction center 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 or earned release credits, with initial placement

in a ~~Division of Community Correction facility~~ community correction center;
and

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

(B) Post-prison supervision shall accompany and follow community correction programming when appropriate.

SECTION 19. Arkansas Code § 16-93-614(c)(2), concerning parole eligibility for offenses committed after January 1, 1994, is amended to read as follows:

(2)(A)(i)(a) An offender convicted of a target offense under § 16-93-1201 et seq. may be committed to the Division of Correction and judicially or administratively transferred to ~~the Division of Community Correction~~ a community correction center by 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~~ a community correction center.

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

(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.

~~(B) The Division of Community Correction shall take over supervision of the offender in accordance with the order of the court.~~

~~(C) The Division of Community Correction shall provide for the appropriate disposition of the offender as expeditiously as practicable under rules developed by the Board of Corrections.~~

~~(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.~~

~~(E)(B)~~ An offender who is transferred back to the Division of Correction removed from a community correction center for disciplinary reasons may be considered for transfer to Division of Community Correction supervision after earning good-time credit equal to one-half ($\frac{1}{2}$) of the remainder of his or her sentence.

~~(F)(C)~~ An offender who is sentenced after July 31, 2007, and who ~~is transferred back to the Division of Correction~~ removed from a community correction center 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 a community correction center~~; and

SECTION 20. Arkansas Code § 16-93-617 is amended to read as follows:

16-93-617. Parole eligibility procedures – Offenses committed after January 1, 1994 – Revocation of transfer.

(a) In the event an offender transferred under this section, §§ 16-93-614 – 16-93-616, or § 16-93-618 violates the terms or conditions of his or her transfer, a hearing shall follow all applicable legal requirements and shall be subject to any additional policies and rules set by the Post-Prison Transfer Board.

(b)(1) In the event an offender transferred under this section and §§ 16-93-614 – 16-93-616, or § 16-93-618 is found to be or becomes ineligible for transfer into a ~~Division of Community Correction facility~~ community correction center, he or she shall be transported to ~~the~~ a Division of Correction facility to serve the remainder of his or her sentence.

(2) Notice of the ineligibility and the reasons therefor shall be provided to the offender, and a hearing may be requested before the board if the offender contests the factual basis of the ineligibility. Otherwise, the board may administratively approve the ~~transfer to the Division of Correction~~ removal from a community correction center.

(c) An offender who is judicially transferred to a ~~Division of Community Correction facility~~ and subsequently transferred back to the

~~Division of Correction~~ a community correction center and subsequently removed by the board for disciplinary or administrative reasons may not become eligible for any further transfer under § 16-93-614(c)(2)~~(E) and (F)~~(B) and (C).

SECTION 21. Arkansas Code § 16-93-712(d)(3), concerning administrative sanctions for parolees, is amended to read as follows:

(3) Intermediate sanctions shall include without limitation:

(A) Day reporting;

(B) Community service;

(C) Increased substance abuse screening or treatment, or both;

(D) Increased monitoring, including electronic monitoring and home confinement; and

(E)(i) Incarceration in a county jail for no more than seven (7) days or incarceration in a ~~Division of Community Correction facility or Division of Correction~~ facility operated or contracted by a division of the Department of Corrections for no more than one hundred twenty (120) days.

(ii)(a) Incarceration as an intermediate sanction shall not be used more than six (6) times with an individual parolee.

(b) A parolee shall accumulate no more than twenty-one (21) days' incarceration in a county jail or no more than two hundred forty (240) days' incarceration in a ~~Division of Community Correction facility or Division of Correction~~ facility operated or contracted by a division of the department as an intermediate sanction before the community supervision officer recommends a violation of the person's parole under § 16-93-706.

(c) A parolee is subject to a period of incarceration of:

(1) Up to sixty (60) days in a ~~Division of Community Correction facility or Division of Correction~~ facility operated or contracted by a division of the department for a technical conditions violation; and

(2) One hundred twenty (120) days in a ~~Division of Community Correction facility or Division of Correction~~ facility

operated or contracted by a division of the department for a serious conditions violation.

(d) A parolee may not be incarcerated more than two (2) times as a parole sanction in a ~~Division of Community Correction facility or Division of Correction~~ operated or contracted by a division of the department facility during a two-year period.

SECTION 22. Arkansas Code § 16-93-1202(2)(G)(i), concerning the things included in the definition of "community correction" with respect to community correction programs, is amended to read as follows:

(G)(i) Community correction ~~facilities~~ centers, multipurpose facilities encompassing security, correction, and services such that offenders can be housed therein when necessary but can also be assigned to or access correction programs and services which are housed there.

SECTION 23. Arkansas Code § 16-93-1202(4)-(6), concerning definitions with respect to community correction, is amended to read as follows:

(4) "Division of Community Correction" means the administrative structure in place to oversee the development and operation of community correction ~~facilities~~, programs, and services, including probation, parole, and post-release supervision;

(5) "Division of Correction" means the administrative structure in place to oversee the daily operation of secure prison facilities and the security functions of community correction centers;

(6) "Eligibility" or "eligible offender" means any person convicted of a felony who is by law eligible for such sentence or who is otherwise under the supervision of the Division of Community Correction and who falls within the population targeted by the General Assembly for inclusion in community correction ~~facilities~~ centers and who has not been subject to a disciplinary violation for a violent act or for sexual misconduct while in the custody of a jail or correctional facility and does not have a current or previous conviction for a violent or sexual offense listed under subdivision (10)(A)(ii) of this section;

SECTION 24. Arkansas Code § 16-93-1202(8), concerning the definition of "supervision" with respect to community correction, is amended to read as

follows:

(8) "Supervision" means direct supervision at varying levels of intensity by community supervision officers in the case of sentences to probation with a condition of community correction or offenders eligible for release on parole or post-release supervision or offenders transferred to community correction or community supervision from the Division of Correction;

SECTION 25. Arkansas Code § 16-93-1202(10)(C), concerning the definition of "target group" with respect to community correction, is amended to read as follows:

(C) Final determination of eligibility for placement in any community correction ~~center or program~~ is the responsibility of the Division of ~~Community~~ Correction;

SECTION 26. Arkansas Code § 16-93-1205 is amended to read as follows:

16-93-1205. Operation and supervision of community correction programs.

(a) The Board of Corrections shall promulgate policies and rules relating to the operation of community correction facilities and programs, the supervision of eligible offenders participating therein, and the termination of that participation, including but not limited to:

(1) The terms, conditions, and qualifications of program eligibility;

(2) The time to be spent in specific correction and treatment programs designated as community correction;

(3) Receipt of compensation in the form of fees or other available sources from the eligible offender while participating in a community correction program;

(4) Allocation of compensation received by an eligible offender while participating in a community correction program, including designation to the ~~Division of Community Correction~~ Department of Corrections of a percentage of any compensation received for the purpose of defraying the costs to the ~~division~~ department of establishing and operating community correction programs and the costs of the offender's custody and care;

(5) Receipt of compensation from public entities who benefit from the labor of offenders involved in community correction work programs;

and

(6) Collection of economic sanctions imposed by the court, including, but not limited to, restitution, fines, fees, or other monetary penalties attached to an offender's sentence.

(b) The ~~division~~ department shall supervise all eligible offenders participating in any community correction program with the goal of promoting the safety and welfare of the people of the state.

SECTION 27. Arkansas Code § 16-93-1207(a) and (b), concerning an order of the court placing an offender on probation and an order sealing an offender's criminal record, are amended to read as follows:

(a) Upon the sentencing or placing on probation of any person under the provisions of this subchapter, the sentencing court shall issue an order or commitment, whichever is appropriate, in writing, setting forth the following:

(1) That the offender is being:

(A) Committed to the Division of Correction;

(B) Committed to the Division of Correction with judicial transfer to ~~the Division of Community Correction~~ a community correction center;

(C) Placed on suspended imposition of sentence;

(D) Placed on probation under the provisions of this subchapter; or

(E) Committed to a county jail for a misdemeanor offense committed after January 1, 2007;

(2) That the offender has knowledge and understanding of the consequences of the sentence or placement on probation and violations thereof;

(3) A designation of sentence or supervision length along with community correction program distinctions of that sentence or supervision length;

(4) Any applicable terms and conditions of the sentence or probation term; and

(5) Presentence investigation or sentencing information, including, but not limited to, criminal history elements and other appropriate or necessary information for correctional use.

(b)(1) Upon the successful completion of probation or a commitment to the Division of Correction with judicial transfer to ~~the Division of Community Correction~~ a community correction center or a commitment to a county jail for one (1) of the offenses targeted by the General Assembly for community correction placement, the court may direct that the record of the offender be sealed with regards to the offense of which the offender was either convicted or placed on probation under the condition that the offender has no more than one (1) previous felony conviction and that the previous felony was other than a conviction for:

- (A) A capital offense;
- (B) Murder in the first degree, § 5-10-102;
- (C) Murder in the second degree, § 5-10-103;
- (D) Rape, § 5-14-103;
- (E) Kidnapping, § 5-11-102;
- (F) Aggravated robbery, § 5-12-103; or
- (G) Delivering controlled substances to a minor as

prohibited in the former § 5-64-410.

(2) The fact that a prior felony conviction has been previously sealed shall not prevent its counting as a prior conviction for the purposes of this subsection.

(3) The procedure, effect, and definition of “sealed” for the purposes of this subsection shall be in accordance with that established in the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq.

SECTION 28. Arkansas Code § 16-93-1804(1), concerning release eligibility for felonies committed on or after January 1, 2025, is amended to read as follows:

(1) A person who commits an offense meeting the definition of target group as defined under § 16-93-1202 and who is judicially or administratively transferred to a community correction center is eligible for transfer to post-release supervision as follows:

(A) If the person is ~~transferred back to the Division of Correction~~ removed from the community correction center for disciplinary reasons, he or she is ineligible to accrue earned release credits against the sentence for which he or she is ~~transferred to the Division of Correction~~ removed from the community correction center for disciplinary reasons;

(B) If the person is ~~transferred back to the Division of Correction~~ removed from the community correction center for administrative reasons, he or she may be considered for transfer to post-release supervision as otherwise authorized in § 16-93-1803 and this section;

(C) If the person is not ~~transferred back to the Division of Correction~~ removed from the community correction center for administrative or disciplinary reasons, he or she is eligible for release under § 12-27-127(c); and

(D) A person who has committed a felony that is within the target group as defined under § 16-93-1202 and who is transferred to community supervision is eligible, under the rules established by the Post-Prison Transfer Board, for commitment to a community correction facility if he or she is found to be in violation of any of his or her conditions of post-release supervision, unless the post-release supervision violation constitutes a non-target felony offense;

SECTION 29. Arkansas Code § 16-93-1907(a)(3), concerning administrative sanctions for post-release supervision, is amended to read as follows:

(3) Intermediate sanctions shall include without limitation:

(A) Community service;

(B) Increased substance abuse screening and treatment;

(C) Increased monitoring, including electronic monitoring and home confinement; and

(D)(i) Incarceration in a county or regional jail for no more than seven (7) days or incarceration in a ~~Division of Correction facility or a Division of Community Correction facility~~ operated or contracted by a division of the Department of Corrections for no more than ninety (90) days.

(ii)(a) Incarceration as an intermediate sanction shall not be used more than six (6) times with an offender on post-release supervision.

(b) If an offender on post-release supervision accumulates more than thirty (30) days' incarceration in a county or regional jail or more than three hundred sixty (360) days' incarceration in a ~~Division of Correction facility or a Division of Community Correction facility~~

operated or contracted by a division of the department as an intermediate sanction, the community supervision officer shall recommend a revocation of the offender's post-release supervision under § 16-93-1908.

(c) An offender shall not be incarcerated more than two (2) times as a result of an intermediate sanction in a ~~Division of Correction~~ facility operated or contracted by a division of the department during any two-year period.

SECTION 30. DO NOT CODIFY. Temporary language.

The Residential Services Section of the Division of Community Correction's statutory powers, duties, and functions, including the functions of budgeting or purchasing, records, contracts, personnel, property, and unexpended balances of appropriations, allocations, and other funds that are utilized for the operation of community correction centers are transferred to the Division of Correction within the Department of Corrections.

SECTION 31. DO NOT CODIFY. Temporary language.

The Sex Offender Community Notification Section of the Division of Correction's statutory powers, duties, and functions, including the functions of budgeting or purchasing, records, contracts, personnel, property, and unexpended balances of appropriations, allocations, and other funds are transferred to the Department of Corrections.

SECTION 32. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that repeat criminal activity threatens the safety of the state; that the transfer of certain powers and duties of the Department of Corrections to the appropriate divisions will improve the ability of the department to address repeat criminal activity; and that this act is immediately necessary to ensure the timely transfer of certain powers and duties of the department to the appropriate division to reduce the rate of recidivism. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the

bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

SECTION 33. DO NOT CODIFY. CONSTRUCTION.

(a) Except as provided in subsection (b) of this section, to the extent that a conflict exists between an act of the regular session of the Ninety-Fifth General Assembly and this act:

(1) Section 1-2-107 shall not apply; and

(2) All of the enactments of each act shall be given effect except to the extent of irreconcilable conflicts, in which case the conflicting provision of this act shall prevail.

(b) This section shall not revive or re-enact any provision of the Arkansas Code that has been repealed by an act of the regular session of the Ninety-Fifth General Assembly, including without limitation this act.

/s/Gilmore