

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senator Bookout**

A Bill

ACT 204 OF 1995
SENATE BILL 216

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 12-28-602, 12-28-603, 12-
9 28-604, 12-28-605, AND 12-28-606, THE PRISON OVERCROWDING
10 EMERGENCY POWERS ACT; AND FOR OTHER PURPOSES."

Subtitle

13 "AMEND THE PRISON OVERCROWDING EMERGENCY
14 POWERS ACT."

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

18 SECTION 1. Arkansas Code 12-28-602 is amended to read as follows:

19 "12-28-602. Definitions.

20 As used in this subchapter, unless the context otherwise requires:

21 (1) "Board" means the Board of Correction and Community Punishment;

22 (2) "Prison" means a correctional facility operated by the Department
23 of Correction under the supervision and direction of the Board;

24 (3) "Prison system" means the prison facilities of the Department of
25 Correction; and

26 (4) "Rated capacity" means the actual available bed space in the prison
27 system as certified by the Board, subject to applicable federal and state laws
28 and the rules and regulations adopted pursuant to those laws."

30 SECTION 2. Arkansas Code 12-28-603 is amended to read as follows:

31 "12-28-603. Declaration of emergency.

32 (a) Whenever the population of the prison system exceeds ninety-eight
33 percent (98%) of rated capacity for thirty (30) consecutive days, the Board
34 may declare a prison overcrowding state of emergency. In making any emergency
35 request, the Board shall certify the rated capacity and current population of
36 the prison system and shall further certify that all authorized actions

1 consistent with applicable state laws and regulations have been exhausted in
2 an attempt to reduce the prison population to ninety-eight percent (98%) of
3 the rated capacity.

4 (b) The Board is hereby authorized to invoke the Prison Overcrowding
5 Emergency Powers Act, §§ 12-28-601 - 12-28-606, separately for those
6 facilities housing either male or female inmate populations, provided all
7 other requirements of that act are met."

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9 SECTION 3. Arkansas Code 12-28-604 is amended to read as follows:

10 "12-28-604. List of inmates - Early parole or discharge.

11 When the Board declares a prison overcrowding state of emergency and
12 notifies the Director of the Department of Correction of the emergency as
13 authorized, the Director shall certify to the Board a list of those inmates
14 who are Class I and Class II, and the Director shall indicate which inmates he
15 recommends. The listed inmates shall be those who, if authorized, would have
16 their parole eligibility, or transfer eligibility, or minimum release date
17 moved up to a point where they would immediately be eligible for parole,
18 transfer or discharge. Upon receipt of the list of inmates certified by the
19 Director, the Board is authorized to move up the projected parole eligibility
20 or transfer eligibility or minimum release dates of any or all inmates on the
21 list by up to ninety (90) days. The Board shall certify to the Director a list
22 of names of all prisoners whose projected parole eligibility or transfer
23 eligibility or minimum release dates are affected pursuant to the provisions
24 of this subchapter."

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26 SECTION 4. Arkansas Code 12-28-605 is amended to read as follows:

27 "12-28-605. Successive states of emergency.

28 The Board may declare succeeding prison overcrowding states of emergency
29 at any time when the prison population exceeds ninety-eight percent (98%) of
30 the rated capacity of the system but these successive states of emergency
31 shall not be declared more often than once each ninety (90) days. Any second
32 or subsequent state of emergency declared pursuant to the provisions of this
33 subchapter shall have the same effect as the first declaration of emergency
34 with respect to inmates in the system on the date of the declaration of each
35 successive state of emergency."

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SECTION 5. Arkansas Code 12-28-606 is amended to read as follows:

"12-28-606. Declaration of end of emergency.

At any time during a declared prison overcrowding state of emergency, the Board may declare the prison overcrowding state of emergency to be ended."

SECTION 6. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 8. All laws and parts of laws in conflict with this act are hereby repealed.

APPROVED: 2-9-95

