

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

*As Engrossed: S3/24/03 S4/1/03*

# A Bill

Act 1721 of 2003  
SENATE BILL 720

5 By: Senators J. Bookout, Capps, Glover, *Critcher*  
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## For An Act To Be Entitled

9 AN ACT TO AMEND THE PRISON OVERCROWDING EMERGENCY  
10 POWERS ACT; AND FOR OTHER PURPOSES.  
11

### Subtitle

12 AN ACT TO AMEND THE PRISON OVERCROWDING  
13 EMERGENCY POWERS ACT.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 *SECTION 1. Arkansas Code § 12-28-602 is amended to read as follows:*  
20 *12-28-602. Definitions.*

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

22 (1) *"Board" means the Board of ~~Correction and Community~~*  
23 *~~Punishment~~ Corrections;*

24 (2) *"Prison" means a correctional facility operated by the*  
25 *Department of Correction under the supervision and direction of the board;*

26 (3) *"Prison system" means the prison facilities of the*  
27 *Department of Correction; ~~and~~*

28 (4) *"Rated capacity" means the actual available bed space in the*  
29 *prison system as certified by the board, subject to applicable federal and*  
30 *state laws and the rules and regulations adopted pursuant to those laws; and*

31 (5) *"County backlog" means those inmates sentenced to the*  
32 *Arkansas Department of Correction that are being housed in the county jails*  
33 *until space is available in the prison.*  
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35 *SECTION 2. Arkansas Code § 12-28-603 is amended to read as follows:*  
36 *12-28-603. Declaration of emergency.*



1           (a)(1) Whenever the population of the prison system exceeds ninety-  
2 eight percent (98%) of the rated capacity for thirty (30) consecutive days,  
3 or whenever the number of inmates on the county jail backlog exceeds five  
4 hundred (500) inmates, the board may declare a prison overcrowding state of  
5 emergency.

6           (2) In making any emergency request, based on exceeding the  
7 ninety-eight percent (98%) capacity, the board shall certify the rated  
8 capacity and current population of the prison system and shall further  
9 certify that all authorized actions consistent with applicable state laws and  
10 regulations have been exhausted in an attempt to reduce the prison population  
11 to ninety-eight percent (98%) of the rated capacity.

12           (3) In making any emergency request based on a county jail  
13 backlog exceeding five hundred (500) inmates, the board shall certify the  
14 list of persons on the county jail backlog and shall further certify that all  
15 authorized actions consistent with applicable state laws and regulations have  
16 been exhausted in an attempt to reduce the county jail backlog to five  
17 hundred (500) inmates.

18           (b) The board is hereby authorized to invoke this subchapter  
19 separately for those facilities housing either male or female inmate  
20 populations, provided all other requirements of this subchapter are met.  
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22           SECTION 3. Arkansas Code § 12-28-604 is amended to read as follows:  
23           12-28-604. List of inmates - Early parole or discharge.

24           (a)(1) When the board declares a prison overcrowding state of  
25 emergency due to exceeding ninety-eight percent (98%) of the rated capacity  
26 and notifies the Director of the Department of Correction of the emergency as  
27 authorized, the director shall certify to the board a list of those inmates  
28 who are Class I and Class II, and the director shall indicate which inmates  
29 he recommends.

30           (2) The listed inmates shall be those who, if authorized, would  
31 have their parole eligibility, transfer eligibility, or minimum release dates  
32 moved up to a point where they would immediately be eligible for parole,  
33 transfer, or discharge.

34           ~~(b)~~(3) Upon receipt of the list of inmates certified by the  
35 director, the board is authorized to move up the projected parole  
36 eligibility, transfer eligibility, or minimum release dates of any or all

1 inmates on the list by up to ninety (90) days.

2 ~~(e)(4)~~ The board shall certify to the director a list of the  
3 names of all prisoners whose projected parole eligibility, transfer  
4 eligibility, or minimum release dates are affected pursuant to the provisions  
5 of this subchapter.

6 (b)(1) When the board declares a prison overcrowding state of  
7 emergency due to the county jail backlog exceeding five hundred (500) inmates  
8 and notifies the Director of the Department of Correction of the emergency as  
9 authorized, the director shall certify to the board a list of those inmates  
10 who are in Class I or Class II status who have been incarcerated in a  
11 Department of Correction facility for a minimum of six (6) months and are  
12 servng a sentence for a nonviolent offense as established by the Board of  
13 Corrections and the director shall indicate which inmates he or she  
14 recommends.

15 (2) The listed inmates shall be those who, if authorized, would  
16 have their parole eligibility, transfer eligibility, or discharge dates moved  
17 up to a point where they would immediately be eligible for parole, transfer,  
18 or discharge.

19 (3) Upon the receipt of the list of inmates certified by the  
20 director, the board is authorized to move up the projected parole  
21 eligibility, transfer eligibility, or discharge dates of any or all inmates  
22 on the list by up to one (1) year.

23 (4) The board shall certify to the director a list of the names  
24 of all prisoners whose projected parole eligibility, transfer eligibility, or  
25 discharge dates are affected pursuant to the provisions of this subchapter.

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27 SECTION 4. Arkansas Code § 12-28-605(a) is amended to read as follows:

28 (a) The board may declare succeeding prison overcrowding states of  
29 emergency at any time when the prison population exceeds ninety-eight percent  
30 (98%) of the rated capacity of the system, but these successive states of  
31 emergency shall not be declared more often than once each ninety (90) days or  
32 at any time the county jail backlog exceeds five hundred (500) inmates.

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34 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the  
35 General Assembly of the State of Arkansas that overcrowding in the state  
36 prisons must be addressed immediately; that this act does so; and that this

1 act must go into effect as soon as possible in order to help assure that our  
2 citizens are protected from the dangerous elements of society. Therefore, an  
3 emergency is declared to exist and this act being immediately necessary for  
4 the preservation of the public peace, health, and safety shall become  
5 effective on:

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

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

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

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13 /s/ J. Bookout  
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16 APPROVED: 4/22/2003  
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