

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

# A Bill

SENATE BILL 254

5 By: Senators Madison, D. Johnson  
6 By: Representatives Williams, J. Edwards  
7

## For An Act To Be Entitled

9 AN ACT TO MAKE VARIOUS CORRECTIONS TO TITLE 12 OF THE  
10 ARKANSAS CODE OF 1987 CONCERNING LAW ENFORCEMENT AND  
11 EMERGENCY MANAGEMENT; AND FOR OTHER PURPOSES.  
12  
13

## Subtitle

15 TO MAKE VARIOUS CORRECTIONS TO TITLE 12  
16 OF THE ARKANSAS CODE OF 1987 CONCERNING  
17 LAW ENFORCEMENT AND EMERGENCY MANAGEMENT.  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code § 12-8-104(c) is amended to read as follows  
23 to clarify its application:

24 (c) The Director of the Department of Arkansas State Police shall  
25 ~~promote~~ promulgate such rules ~~and regulations~~ as are necessary for the  
26 efficient operation of the Department of Arkansas State Police and for the  
27 enforcement of such duties as are prescribed in this chapter.  
28

29 SECTION 2. Arkansas Code § 12-8-304(a)(2)(A) is amended to read as  
30 follows to correct obsolete language:

31 (A) The Arkansas State Police Commission shall comply with  
32 ~~§§ 25-4-107 [repealed] and 25-4-108~~ and 25-4-110 before acquiring any  
33 communications equipment authorized under this subchapter; and  
34

35 SECTION 3. Arkansas Code § 12-9-105 is amended to read as follows to  
36 correct obsolete language and make stylistic changes:



12-9-105. Employees.

The Arkansas Commission on Law Enforcement Standards and Training ~~is~~  
~~authorized to~~ may employ such employees as are necessary to efficiently and  
effectively carry out ~~the provisions of~~ this subchapter and as may be  
authorized by ~~biennial~~ appropriations of the General Assembly.

SECTION 4. Arkansas Code §§ 12-11-106 – 12-11-109 are repealed because  
they are obsolete and superseded by the Arkansas Rules of Criminal Procedure.

~~12-11-106. Discharge or further requirement of security.~~

~~(a)(1) Upon the defendant appearing, the court shall examine the case,  
and either discharge the defendant or require security to keep the peace or  
for his or her good behavior for a period not exceeding one (1) year. In  
default of giving security, the court may commit the defendant to jail for a  
period to be fixed by the court, not exceeding three (3) months, unless he or  
she shall in the meantime give security.~~

~~(2) Where a defendant is committed to jail for failure to give  
security as provided in subdivision (a)(1) of this section, the cause of  
commitment and the sum in which he or she is required to give security shall  
be stated in the written order of commitment, which shall be delivered to the  
jailer.~~

~~(b) Where the proceedings are taken upon the complaint of the person  
threatened and the complainant fails to appear before the court or  
magistrate, the defendant shall be discharged.~~

~~(c) Unless the court or magistrate is satisfied that there are  
reasonable grounds for believing that the defendant will commit an offense  
against the person or property of another, commit violence endangering human  
life, or an offense amounting to a felony, the defendant shall be discharged.~~

~~12-11-107. Security by recognizance.~~

~~Where the security required in §§ 12-11-106 — 12-11-109 is given in  
court, it may be by a recognizance entered into in open court and entered  
upon the records by the clerk.~~

~~12-11-108. Security after commitment.~~

~~Any magistrate or circuit judge may take the security required by §§  
12-11-106 — 12-11-109 of a defendant committed to jail for default of giving~~

1 ~~such security.~~

3 ~~12-11-109. Breaches of bond.~~

4 ~~(a) The following are the breaches of the bond required in §§ 12-11-~~  
5 ~~106—12-11-108 and this section:~~

6 ~~(1) The failure of the defendant to appear in the circuit court,~~  
7 ~~where the bond requires such appearance, or departing therefrom before he or~~  
8 ~~she is lawfully discharged;~~

9 ~~(2) A judicial conviction of the defendant of an offense~~  
10 ~~involving a breach of the peace within the period specified in the bond; and~~

11 ~~(3) A judicial conviction of the defendant of a felony within~~  
12 ~~the time specified in the bond, where the bond is for his or her good~~  
13 ~~behavior.~~

14 ~~(b) The prosecuting attorney may proceed by action, in the name of the~~  
15 ~~state, against the defendant and his or her security, upon a breach of the~~  
16 ~~bond.~~

18 SECTION 5. Arkansas Code § 12-11-110 is amended to read as follows to  
19 remove obsolete language and clarify its application:

20 12-11-110. Drunken, insane, and disorderly persons.

21 ~~(a) It shall be the duty of all peace officers to arrest any insane or~~  
22 ~~drunken person, whom they may find at large and not in the care of some~~  
23 ~~discreet person, and take him or her before some magistrate of the county,~~  
24 ~~city, or town in which the arrest is made.~~

25 ~~(b) It shall also be the duty of all peace officers to arrest any~~  
26 ~~disorderly person, whom they may find creating a disturbance by noise or~~  
27 ~~other disorder, and take him or her before some magistrate of the county,~~  
28 ~~town, or city in which the arrest is made.~~

29 ~~(c)(1) If the arrests authorized in subsections (a) and (b) of this~~  
30 ~~section are made during the night, the officer shall keep those arrested in~~  
31 ~~confinement until the next morning.~~

32 ~~(2) In the case of an insane or drunken person, the officer may~~  
33 ~~deliver him or her into the custody of some discreet person who will~~  
34 ~~undertake to restrain and take care of him or her.~~

35 ~~(3) If the arrests are made in the local jurisdiction of a city~~  
36 ~~court, the person arrested shall be taken before the judge of such court~~

1 ~~unless he or she is absent.~~

2 ~~(d)(1) Upon a drunken person being brought before a magistrate, the~~  
 3 ~~magistrate shall have the power to order the person to be confined until he~~  
 4 ~~or she becomes sober.~~

5 ~~(2) Upon a disorderly person being brought before a magistrate,~~  
 6 ~~the magistrate may require of him or her surety for his or her good behavior,~~  
 7 ~~and for keeping the peace for a period not exceeding one (1) year. On the~~  
 8 ~~failure of the disorderly person to give such security, the magistrate may~~  
 9 ~~commit him or her until he or she gives security, but in no event is the~~  
 10 ~~confinement to exceed thirty (30) days.~~

11 A law enforcement officer shall arrest a drunken, insane, or disorderly  
 12 person whom he or she finds at large and not in the care of a competent  
 13 person.

14  
 15 SECTION 6. Arkansas Code §§ 12-12-104(f)(2) and (3) are amended to  
 16 read as follows to correct obsolete references:

17 (2) "Sex offense" means ~~a sex offense as defined in former § 12-~~  
 18 ~~12-1103(10); and:~~

- 19 (A) Rape, § 5-14-103;
- 20 (B) Sexual indecency with a child, § 5-14-110;
- 21 (C) Sexual assault in the first degree, § 5-14-124;
- 22 (D) Sexual assault in the second degree, § 5-14-125;
- 23 (E) Sexual assault in the third degree, § 5-14-126;
- 24 (F) Sexual assault in the fourth degree, § 5-14-127;
- 25 (G) Incest, § 5-26-202;
- 26 (H) Engaging children in sexually explicit conduct for use  
 27 in visual or print medium, § 5-27-303;
- 28 (I) Transportation of minors for prohibited sexual  
 29 conduct, § 5-27-305;
- 30 (J) Employing or consenting to use of child in sexual  
 31 performance, § 5-27-402;
- 32 (K) Producing, directing, or promoting sexual performance,  
 33 § 5-27-403;
- 34 (L) Computer child pornography, § 5-27-603;
- 35 (M) Computer exploitation of a child in the first degree,  
 36 § 5-27-605(a);

1                   (N) Promoting prostitution in the first degree, § 5-70-  
 2 104;

3                   (O) Stalking, § 5-71-229;

4                   (P) An attempt, solicitation, or conspiracy to commit any  
 5 of the offenses enumerated in this subdivision (f)(2); or

6                   (Q) A violation of any former law of this state that is  
 7 substantially equivalent to any of the offenses enumerated in this  
 8 subdivision (f)(2); and

9                   (3) "Violent offense" means ~~a violent offense as defined in §~~  
 10 ~~12-12-1103(11) [repealed].;~~

11                   (A) Murder, § 5-10-101, 5-10-102, or 5-10-103;

12                   (B) Manslaughter, § 5-10-104;

13                   (C) Kidnapping, § 5-11-102;

14                   (D) False imprisonment in the first degree, § 5-11-103;

15                   (E) Permanent detention or restraint, § 5-11-106;

16                   (F) Robbery, § 5-12-102;

17                   (G) Aggravated robbery, § 5-12-103;

18                   (H) Battery in the first degree, § 5-13-201;

19                   (I) Battery in the second degree, § 5-13-202;

20                   (J) Aggravated assault, § 5-13-204;

21                   (K) Terroristic threatening in the first degree, § 5-13-  
 22 301;

23                   (L) Domestic battering, §§ 5-26-303 - 5-26-305;

24                   (M) Aggravated assault on family or household member, § 5-  
 25 26-306;

26                   (N) Engaging in a continuing criminal gang, organization,  
 27 or enterprise, § 5-74-104;

28                   (O) An attempt, solicitation, or conspiracy to commit any  
 29 of the offenses enumerated in this subdivision (f)(3); or

30                   (P) A violation of any former law of this state that is  
 31 substantially equivalent to any of the offenses enumerated in this  
 32 subdivision (f)(3).

33  
 34                   SECTION 7. Arkansas Code § 12-12-212 is amended to read as follows to  
 35 clarify a criminal offense, correct a culpable mental state, and make  
 36 stylistic changes:

12-12-212. Release or disclosure to unauthorized person – Penalty.

~~Every~~ A person who ~~shall release or disclose knowingly releases or~~  
~~discloses~~ any information authorized to be maintained and collected under  
 this subchapter to another person ~~known to lack~~ who lacks authority to  
 receive ~~such the~~ information ~~and or~~ any person who ~~willfully~~ knowingly  
 obtains that information for purposes not specified by this subchapter ~~shall~~  
~~be deemed~~ upon conviction is guilty of a Class D felony.

SECTION 8. Arkansas Code § 12-12-216(b)(2) is amended to read as  
 follows to correct obsolete language and make stylistic changes:

(2) The total amount ~~which that~~ is carried forward under ~~the~~  
~~provisions of~~ this section shall be reported in the budget manuals ~~which that~~  
 are presented to the Legislative Council and Joint Budget Committee during  
 the presession budget hearings ~~which are held in the fall of each even-~~  
~~numbered year.~~

SECTION 9. Arkansas Code § 12-12-217(a) is amended to read as follows  
 to remove obsolete language:

(a) On July 31 of each year the Arkansas Crime Information Center  
 shall submit an annual report to the Legislative Council ~~and the Commission~~  
~~on Disparity in Sentencing~~ showing the number of persons arrested for each  
 criminal offense classification, comparing the state and each individual  
 reporting agency.

SECTION 10. Arkansas Code § 12-12-320(a) is amended to read as follows  
 to correct obsolete language:

(a) The State Medical Examiner and his or her assistants ~~are~~  
~~authorized to~~ may remove the pituitary gland during the course of an autopsy  
 and donate the pituitary gland to ~~the Arkansas Dwarf Association~~ an  
appropriate organization.

SECTION 11. Arkansas Code § 12-12-1404(c) is amended to read as  
 follows to remove obsolete language:

~~(e)(1)(A)~~ (c)(1) The Arkansas Commission on Law Enforcement Standards  
 and Training shall adopt an initial training module concerning diversity and  
 racial sensitivity for recruits and officers.

1           ~~(B)(2)~~ The commission shall also adopt a training module for  
 2 biennial recertification for all recruits and officers who have completed the  
 3 initial training module.

4           ~~(2) An officer currently employed by any law enforcement agency~~  
 5 ~~shall be required to complete the initial training module described in~~  
 6 ~~subdivision (c)(1)(A) of this section before June 30, 2006.~~

7  
 8           SECTION 12. Arkansas Code § 12-12-1603(8) is amended to read as  
 9 follows to clarify its application:

10           (8) "Volunteer" means an individual who provides services  
 11 involving contact with children, the elderly, victims of domestic abuse, or  
 12 individuals with disabilities without an express or implied promise of  
 13 compensation; and

14  
 15           SECTION 13. Arkansas Code § 12-12-1608 is amended to read as follows  
 16 to clarify its application:

17           12-12-1608. Penalty.

18           The following acts ~~shall constitute~~ are a Class A misdemeanor:

19           (1) Knowingly releasing or disclosing criminal ~~background~~  
 20 history information to any unauthorized volunteer organization or person; or

21           (2) Obtaining criminal history information for a purpose not  
 22 authorized by this subchapter.

23  
 24           SECTION 14. Arkansas Code § 12-17-106(c)(2) is amended to read as  
 25 follows to clarify a reference:

26           (2) A form provided by the section identifying the amount of the  
 27 drug crime special assessments shall be transmitted with the collected drug  
 28 crime special assessments.

29  
 30           SECTION 15. Arkansas Code § 12-18-103(1) is amended to read as follows  
 31 to clarify a definition, correct grammatical errors, and make stylistic  
 32 changes:

33           (1)(A) "Abandonment" means ~~the failure of a parent to:~~

34                   ~~(A) Provide~~ (i) The failure of a parent to provide  
 35 reasonable support and to maintain regular contact with a child through  
 36 statement or contact when the failure is accompanied by an intention on the

1 part of the parent to permit the condition to continue for an indefinite  
 2 period in the future ~~and or the failure of a parent to~~ support or maintain  
 3 regular contact with a child without just cause; or

4 ~~(B)(ii)~~ An articulated intent to forego parental  
 5 responsibility.

6 ~~(C)(B)~~ "Abandonment" does not include acts or omissions of  
 7 a parent toward a married minor;

8  
 9 SECTION 16. Arkansas Code § 12-18-103(19)(B) is amended to read as  
 10 follows to clarify a definition:

11 (B) ~~However, nothing in this section shall permit normal~~  
 12 ~~affectionate hugging to be construed as sexual~~ "Sexual contact" does not  
 13 include normal affectionate hugging;

14  
 15 SECTION 17. Arkansas Code § 12-18-103(20)(A)(ii) is amended to read as  
 16 follows to correct a grammatical error:

17 (ii) Obscene photography; or

18  
 19 SECTION 18. Arkansas Code § 12-18-309 is amended to read as follows to  
 20 clarify a reference:

21 12-18-309. Reports alleging that a child is dependent-neglected.  
 22 The Child Abuse Hotline shall accept telephone calls or other  
 23 communications alleging that a child is a dependent-neglected juvenile, as  
 24 defined in § 9-27-303(18), and shall immediately refer this information to  
 25 the Department of Human Services.

26  
 27 SECTION 19. Arkansas Code § 12-18-706(7) is amended to read as follows  
 28 to clarify a reference:

29 (7) The name of the person making the notification to the alleged  
 30 ~~juvenile~~ offender, his or her title or position, and current contact  
 31 information; and

32  
 33 SECTION 20. The introductory language of Arkansas Code § 12-18-1002 is  
 34 amended to read as follows to clarify its application:

35 A county sheriff or chief of police may place a child in his or her  
 36 custody in a Department of Human Services foster home if:



1  
2 SECTION 21. Arkansas Code § 12-18-1108 is amended to read as follows  
3 to clarify its application:

4 12-18-1108. Information not to be released in a child near fatality.

5 Concerning the near fatality of a child, the Department of Human  
6 Services shall not release:

- 7 (1) Information on siblings of the child;  
8 (2) Attorney-client communications; or  
9 (3) Any information if release of such information would  
10 jeopardize a criminal investigation.

11  
12 SECTION 22. Arkansas Code § 12-27-116(b)(3) is amended to read as  
13 follows to correct grammatical errors and clarify its application:

14 (3) Reasonable As determined by availability after meeting the  
15 needs of the inmate population, reasonable quantities, as determined by  
16 availability after meeting the needs of the inmate population, of items  
17 produced or processed by the farming operations of the department or  
18 purchased in bulk for processing shall be made available under this section.

19  
20 SECTION 23. Arkansas Code § 12-29-105(b) is amended to read as follows  
21 to remove obsolete language:

22 (b) The Director of the Department of Correction ~~and the physician~~  
23 shall afford every facility to a clergy to visit a convict and to administer  
24 rites, ceremonies, and spiritual consolation ~~not inconsistent to a convict~~  
25 within the rules of the prison ~~to a convict.~~

26  
27 SECTION 24. Arkansas Code § 12-30-205(b)(1)(B)(i) is amended to read  
28 as follows to clarify its application:

29 (B)(i) All employees of the public offices, departments,  
30 institutions, school districts, and ~~public~~ agencies ~~in~~ of this state.

31  
32 SECTION 25. DO NOT CODIFY. The enactment and adoption of this act  
33 shall not repeal, expressly or impliedly, the acts passed at the regular  
34 session of the Eighty-Eighth General Assembly. All such acts shall have the  
35 full force and effect and, so far as those acts intentionally vary from or  
36 conflict with any provision contained in this act, those acts shall have the

effect of subsequent acts and as amending or repealing the appropriate parts  
of the Arkansas Code of 1987.