

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**

# A Bill

**ACT 293 OF 1995**  
**HOUSE BILL 1292**

4 **By: Representative B. G. Hendrix**

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## 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."

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## Subtitle

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"AMEND THE PRISON OVERCROWDING EMERGENCY  
14 POWERS ACT."

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

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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."

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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: 2-13-95

