

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.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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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32 ~~§§ 25-4-107 [repealed] and 25-4-108~~ and 25-4-110 before acquiring any  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  
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35 SECTION 3. Arkansas Code § 12-9-105 is amended to read as follows to  
36 correct obsolete language and make stylistic changes:



1 12-9-105. Employees.

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

6  
7 SECTION 4. Arkansas Code §§ 12-11-106 – 12-11-109 are repealed because  
8 they are obsolete and superseded by the Arkansas Rules of Criminal Procedure.

9 ~~12-11-106. Discharge or further requirement of security.~~

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

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

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

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

28  
29 ~~12-11-107. Security by recognizance.~~

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

33  
34 ~~12-11-108. Security after commitment.~~

35 ~~Any magistrate or circuit judge may take the security required by §§~~  
36 ~~12-11-106 – 12-11-109 of a defendant committed to jail for default of giving~~

1 such security.

2

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.~~

17

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).

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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:

1 12-12-212. Release or disclosure to unauthorized person – Penalty.  
 2 ~~Every~~ A person who ~~shall release or disclose knowingly releases or~~  
 3 discloses any information authorized to be maintained and collected under  
 4 this subchapter to another person ~~known to lack~~ who lacks authority to  
 5 receive ~~such the~~ information ~~and or~~ any person who ~~willfully~~ knowingly  
 6 obtains that information for purposes not specified by this subchapter ~~shall~~  
 7 ~~be deemed~~ upon conviction is guilty of a Class D felony.

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

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

16  
 17 SECTION 9. Arkansas Code § 12-12-217(a) is amended to read as follows  
 18 to remove obsolete language:

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

24  
 25 SECTION 10. Arkansas Code § 12-12-320(a) is amended to read as follows  
 26 to correct obsolete language:

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

31  
 32 SECTION 11. Arkansas Code § 12-12-1404(c) is amended to read as  
 33 follows to remove obsolete language:

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



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:

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

12-18-1108. Information not to be released in a child near fatality. Concerning the near fatality of a child, the Department of Human Services shall not release:

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

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

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

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

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

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

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

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

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

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5 **APPROVED: 03/30/2011**  
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