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4

As Engrossed: S1/18/17

A Bill

SENATE BILL 24

5 By: Senator B. Johnson
6 By: Representative Tosh
7

For An Act To Be Entitled

9 AN ACT CONCERNING CRIMINAL DETENTION FACILITY REVIEW
10 COMMITTEES; TO REDUCE THE SIZE OF STATE GOVERNMENT;
11 TO REDUCE EXPENSES; TO ENCOURAGE EFFICIENCY; AND FOR
12 OTHER PURPOSES.
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Subtitle

15 CONCERNING CRIMINAL DETENTION FACILITY
16 REVIEW COMMITTEES; TO REDUCE THE SIZE OF
17 STATE GOVERNMENT; TO REDUCE EXPENSES; AND
18 TO ENCOURAGE EFFICIENCY.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 12-26-101 is amended to read as follows:
25 12-26-101. Policy – Purpose of chapter.

26 (a) It is declared to be the policy of the State of Arkansas that all
27 criminal detention facilities and juvenile detention facilities within the
28 counties of the state shall conform to certain minimum standards of
29 construction, maintenance, and operation.

30 (b) It is the purpose of this chapter to implement this policy by
31 establishing a criminal detention ~~facilities~~ facility review committee within
32 each of the ~~judicial~~ criminal detention facility review committee districts
33 of the state with the authority and responsibility to administer the
34 provisions of this chapter and other laws enacted relating to standards for
35 criminal detention facilities and juvenile detention facilities.
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1 SECTION 2. Arkansas Code § 12-26-102 is amended to read as follows:
 2 12-26-102. Definitions.

3 As used in this chapter,

4 ~~(1) "Committee" means the criminal detention facilities review~~
 5 ~~committee established in each of the judicial districts of this state;~~

6 ~~(2) "Criminal "~~criminal ~~detention facility" means any~~
 7 institution operated by a political ~~jurisdiction~~ subdivision or a combination
 8 of ~~jurisdictions~~ political subdivisions for the care, keeping, or
 9 rehabilitative needs of adult criminal offenders, including regional jails,
 10 county jails, municipal jails, and temporary holding units;

11 ~~(3) "Intermediate or long-term facility" means a criminal~~
 12 ~~detention institution in which prisoners may be held from the time of intake~~
 13 ~~through a one-year period;~~

14 ~~(4) "Short-term facility" means any institution operated by a~~
 15 ~~local unit of government in which persons may be incarcerated from the time~~
 16 ~~of intake up to sixty (60) days; and~~

17 ~~(5) "Twenty-four hour or overnight facility" means any~~
 18 ~~institution operated by a local government in which persons may be~~
 19 ~~incarcerated from the time of intake up to twenty-four (24) hours.~~

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 21 SECTION 3. Arkansas Code § 12-26-103 is amended to read as follows:
 22 12-26-103. Review coordinator.

23 (a) There is established the ~~office~~ Office of Criminal Detention
 24 Facilities Review Coordinator which shall consist of:

25 (1) A criminal detention facilities review coordinator, who
 26 shall be appointed by and serve at the pleasure of the Governor;

27 ~~(2) A juvenile justice specialist; and~~

28 ~~(3)~~(2) An administrative assistant.

29 (b) The ~~coordinator's~~ office shall be responsible for promulgating
 30 minimum standards for the construction, maintenance, and operation of local,
 31 county, regional, or state criminal detention facilities and juvenile
 32 detention facilities in accordance with the Arkansas Administrative Procedure
 33 Act, § 25-15-201 et seq.

34 (c) The coordinator shall perform all duties necessary to assure
 35 uniformity in the interpretation and administration of the minimum standards
 36 by the several criminal facility detention review committees.

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2 SECTION 4. Arkansas Code § 12-26-105 is amended to read as follows:

3 12-26-105. ~~Judicial district~~ Criminal detention facility review
4 committee districts and committees created – Members.

5 (a) There are created eight (8) criminal detention facility review
6 committee districts as follows:

7 (1) Criminal Detention Facility Review Committee District One is
8 composed of the following counties: Baxter, Benton, Boone, Carroll, Madison,
9 Marion, Newton, Searcy, and Washington;

10 (2) Criminal Detention Facility Review Committee District Two is
11 composed of the following counties: Cleburne, Conway, Faulkner, Fulton,
12 Independence, Izard, Sharp, Stone, Van Buren, and White;

13 (3) Criminal Detention Facility Review Committee District Three
14 is composed of the following counties: Clay, Craighead, Greene, Jackson,
15 Lawrence, Mississippi, Poinsett, and Randolph;

16 (4) Criminal Detention Facility Review Committee District Four
17 is composed of the following counties: Crawford, Franklin, Johnson, Logan,
18 Montgomery, Polk, Pope, Scott, Sebastian, and Yell;

19 (5) Criminal Detention Facility Review Committee District Five
20 is composed of the following counties: Crittenden, Cross, Lee, Lonoke,
21 Monroe, Phillips, Prairie, St. Francis, and Woodruff;

22 (6) Criminal Detention Facility Review Committee District Six is
23 composed of the following counties: Arkansas, Garland, Grant, Hot Spring,
24 Jefferson, Perry, Pulaski, and Saline;

25 (7) Criminal Detention Facility Review Committee District Seven
26 is composed of the following counties: Clark, Columbia, Hempstead, Howard,
27 Lafayette, Little River, Miller, Nevada, Ouachita, Pike, and Sevier; and

28 (8) Criminal Detention Facility Review Committee District Eight
29 is composed of the following counties: Ashley, Bradley, Calhoun, Chicot,
30 Cleveland, Dallas, Desha, Drew, Lincoln, and Union.

31 ~~(a)(1)(b)(1)~~ (1) There is created within each ~~judicial~~ district a criminal
32 detention facility review committee to be composed of ~~at least~~ five (5)
33 members who are residents within the ~~judicial~~ district and who ~~hold no~~ do not
34 hold public office.

35 ~~(2) Each county within a judicial district shall have at least one (1)~~
36 ~~representative on the committee. If the number of counties in a judicial~~

1 ~~district exceeds five (5), the membership of the committee shall be increased~~
2 ~~to the nearest odd number that provides for representation from each county.~~
3 The Governor shall appoint the members of a committee for a term of four (4)
4 years as follows:

5 (A) A county in the district shall be represented on the
6 committee by no more than one (1) member;

7 ~~(3) There shall be at~~(B) At least one (1) member on each the
8 committee who is shall be a youth services worker or juvenile advocate;

9 ~~(b)(1) The membership of each committee shall be appointed by the~~
10 ~~Governor. The members shall be appointed for terms of four (4) years.~~

11 ~~(2) Members of the committees are permitted to succeed themselves.~~

12 (C) The Governor may reappoint a member of the committee to the
13 committee at the end of the member's term; and

14 ~~(3) In the event~~(D) If a vacancy occurs on a the committee, the
15 remaining members of the committee shall notify, in writing, the appointing
16 body Governor of the vacancy, and the appointing body Governor shall appoint
17 another member to serve the remainder of the vacated term.

18 (c) Each year the members of a committee shall elect one (1) member to
19 serve as chair.

20 ~~(d)(1) The committees~~ A committee shall function as ~~state agencies a~~
21 state agency.

22 ~~(2)(A) Members shall enjoy~~ A member of a committee has all of
23 the rights and privileges of ~~state officers while performing their~~ a state
24 officer while performing his or her duties as assigned by this chapter.

25 ~~(B) This protection~~ Subdivision (d)(2)(A) of this section
26 extends to any case that may arise as a result of those duties with no the
27 duties assigned by this chapter without a time limitation except as may
28 already exist by other statutes.

29 ~~(e)(1) The members~~ A member of a committee shall receive no
30 compensation or remuneration, ~~provided that~~ however, the state shall
31 reimburse ~~the members~~ a member for clerical and typing expenses approved by
32 the Criminal Detention Facilities Review Coordinator.

33 (2) Members A member of a committee may receive expense
34 reimbursement in accordance with § 25-16-901 et seq.

35
36 SECTION 5. Arkansas Code § 12-26-106 is amended to read as follows:

1 12-26-106. Powers and duties of ~~committees~~ a criminal detention
2 facility review committee.

3 ~~The criminal~~ A criminal detention facility review ~~committees~~ committee
4 shall ~~have the authority and responsibility to:~~

5 (1) Provide consultation and technical assistance to county and
6 local government officials with respect to criminal detention facilities and
7 juvenile detention facilities;

8 (2) Visit and inspect the criminal detention facilities and
9 juvenile detention facilities for compliance with the standards as
10 established under § 12-26-103;

11 (3) Advise government officials and other appropriate persons of
12 deficiencies in the criminal detention facilities and juvenile detention
13 facilities and make recommendations for improvements;

14 (4) Submit written reports of the inspections to appropriate
15 agencies and persons as provided in § 12-26-107;

16 (5) Review and comment on plans for the construction and major
17 modification or renovation of the criminal detention facilities and juvenile
18 detention facilities; and

19 (6) Perform such other duties as may be necessary to carry out
20 the policy of the state regarding criminal detention facilities and juvenile
21 detention facilities.

22
23 SECTION 6. Arkansas Code § 12-26-107 is amended to read as follows:

24 12-26-107. Inspection of facility – Report.

25 (a) Except as otherwise provided in this chapter, each criminal
26 detention facility review committee shall visit and inspect each criminal
27 detention facility and each juvenile detention facility, if any, in ~~its~~
28 judicial the committee's criminal detention facility review committee
29 district at least annually for the purpose of determining the conditions of
30 confinement, the treatment of prisoners, and whether the criminal detention
31 facilities and juvenile detention facilities comply with the minimum
32 standards established pursuant to this chapter.

33 (b)(1) A written report of each inspection shall be made within thirty
34 (30) days following such inspection to the ~~chief circuit~~ administrative judge
35 for ~~the~~ a judicial district within the geographic area of the criminal
36 detention facility review committee district in which the criminal detention

1 facility or juvenile detention facility is located and to the county judge or
2 the governing body of the political subdivision whose criminal detention
3 facility or juvenile detention facility is the subject of the written report.

4 (2) The written report shall specify those respects in which the
5 criminal detention facility or juvenile detention facility does not comply
6 with the required minimum standards.

7
8 SECTION 7. Arkansas Code § 12-26-108 is amended to read as follows:

9 12-26-108. Failure to meet minimum standards – Procedure.

10 (a)(1) If an inspection under this chapter discloses that the criminal
11 detention facility or juvenile detention facility does not meet the minimum
12 standards established by the Criminal Detention Facilities Review
13 Coordinator, the criminal detention facility review committee shall send
14 notice, together with the inspection report, to the governing body
15 responsible for the criminal detention facility or juvenile detention
16 ~~facility and to the duly constituted grand jury for the county in which the~~
17 ~~criminal detention facility or juvenile detention facility is located.~~

18 (2) A copy of the notice required by this chapter shall also be
19 sent to the ~~chief circuit~~ administrative judge of ~~the~~ a judicial district
20 within the geographic area of the criminal detention facility review
21 committee district in which the criminal detention facility or juvenile
22 detention facility is located.

23 (b) ~~The appropriate governing body or the grand jury, or both,~~ shall
24 promptly meet to consider the inspection report, and the ~~committee chair of~~
25 the criminal detention facility review committee, or the chair's designee,
26 shall appear to advise and consult concerning appropriate corrective action.

27 (c) ~~The governing body or the grand jury, or both,~~ shall then initiate
28 appropriate corrective action within six (6) months of the receipt of the
29 inspection report or may voluntarily close the detention facility or the
30 objectionable portion of the criminal detention facility or juvenile
31 detention facility.

32 (d)(1) ~~If the governing body or the grand jury fails to initiate~~
33 ~~corrective action within six (6) months after receipt of such~~ the inspection
34 report, or fails to correct the disclosed conditions, or fails to close the
35 criminal detention facility or juvenile detention facility or the
36 objectionable portion ~~thereof~~ of the criminal detention facility or juvenile

1 detention facility, the committee ~~is authorized to~~ may petition a circuit
 2 court within the judicial district in which the facility is located to close
 3 the criminal detention facility or juvenile facility.

4 (2) The petition shall include the inspection report regarding
 5 the criminal detention facility or juvenile facility.

6 (3) The local governing body shall then have thirty (30) days to
 7 respond to the petition and shall serve a copy of the response on the
 8 ~~committee~~ chair by certified mail, return receipt requested.

9 (e) Thereafter, a hearing shall be held on the petition before the
 10 circuit court, and an order rendered by ~~such~~ the circuit court which:

11 (1) Dismisses the petition of the committee;

12 (2) Directs that corrective action be initiated in some form by
 13 ~~the local governing body or by the grand jury with respect to~~ the criminal
 14 detention facility or juvenile detention facility in question; or

15 (3) Directs that the criminal detention facility or juvenile
 16 detention facility be closed.

17 (f) An appeal from the decision of the circuit court may be taken ~~to~~
 18 ~~the Supreme Court~~ as provided in the Rules of Appellate Procedure – Civil.

19
 20 *SECTION 8. Arkansas Code § 12-26-109 is repealed.*

21 ~~*12-26-109. Advisory council.*~~

22 ~~*The Governor may establish a citizen advisory council composed of*~~
 23 ~~*Arkansas citizens to advise the Criminal Detention Facilities Review*~~
 24 ~~*Coordinator regarding jail standards.*~~

25
 26 SECTION 9. DO NOT CODIFY. Temporary legislation.

27 (a)(1) The criminal detention facility review committees established
 28 under § 12-26-101 et seq. before the effective date of this act are abolished
 29 on January 1, 2019.

30 (2) A vacancy on a committee abolished by this act shall not be
 31 filled before January 1, 2019, absent an appointment by the Governor in the
 32 event of an emergency.

33 (b) At the initial meeting of a criminal detention facility review
 34 committee created under this act, the members of the committee shall draw
 35 lots for staggered initial terms as follows:

36 (1) One (1) member to serve an initial one-year term;

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- (2) One (1) member to serve an initial two-year term;
- (3) One (1) member to serve an initial three-year term; and
- (4) Two (2) members to serve initial four-year terms.

SECTION 10. DO NOT CODIFY. Effective date.
Sections 1 through 6 of this act are effective on and after January 1,
2019.

/s/B. Johnson

APPROVED: 02/10/2017