

"THE PRISON OVERCROWDING EMERGENCY POWERS ACT OF 1987".

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

SECTION 1. This Act shall be known as the "Prison Overcrowding Emergency Powers Act".

SECTION 2. As used in this Act:

(a) "Board" means the Arkansas State Board of Correction.

(b) "Prison" means a correctional facility operated by the Department of Correction under the supervision and direction of the Board.

(c) "Prison system" means the prison facilities of the Arkansas Department of Correction.

(d) "Rated Capacity" means the actual available bed space in the prison system as certified by the Board, subject to applicable federal and state laws and the rules and regulations adopted pursuant to those laws.

SECTION 3. Whenever the population of the prison system exceeds ninety-eight percent (98%) of the rated capacity for thirty (30) consecutive days, the Board may declare a prison overcrowding state of emergency. In making any such request, the Board shall certify the rated capacity and current population of the prison system and shall further certify that all authorized actions consistent with applicable state laws and regulations have been exhausted in an attempt to reduce the prison population to ninety-eight percent (98%) of the rated capacity.

SECTION 4. When the Board declares a prison overcrowding state of emergency and notifies the Director of the Department of Correction thereof as authorized herein, the Director shall certify to the Board a list of those inmates who are Class I and Class II and the Director shall indicate which inmates he recommends. The listed inmates shall be those who, if authorized, would have their parole eligibility or minimum release date moved up to a point where they would immediately be eligible for parole and/or discharge. Upon receipt of the list of inmates certified by the Director, the Board is authorized to move up the projected parole eligibility and/or minimum release dates of any or all inmates on the list by up to ninety (90) days. The Board shall certify to the Director a list of names of all prisoners whose projected parole eligibility and/or minimum release dates are affected pursuant to the provisions of this Act.

SECTION 5. The Board may declare succeeding prison overcrowding states of emergency at any time when the prison population exceeds ninety-eight percent (98%) of the rated capacity of the system but such successive states of emergency shall not be declared more often than once each ninety (90) days. Any second or subsequent state of emergency declared pursuant to the provisions of this Act shall have the same effect as the first declaration of emergency with respect to inmates in the system on the date of the declaration of each successive state of emergency.

SECTION 6. 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 7. Act 223 of 1983 and all laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 8. EMERGENCY. It is hereby found and determined by the General Assembly that there is serious overcrowding in the Department of Correction facilities and that such overcrowding is likely to worsen unless appropriate action is taken immediately; that this Act is designed to establish a procedure for alleviating this problem and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: 3/26/87

---