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A Bill

3 Regular Session, 2015

SENATE BILL 472

4

5 By: Senators J. Hutchinson, Bledsoe, E. Cheatham, A. Clark, Collins-Smith, J. Cooper, J. Dismang, Files,
6 Flippo, Hester, B. Johnson, U. Lindsey, Maloch, B. Pierce, Rapert, Rice, G. Stubblefield, J. Woods,
7 Elliott

8 By: Representatives Shepherd, *Gillam, Tucker, Baine, Bragg, Davis, Lemons, Lowery, Lundstrum,*
9 *Richmond, Scott, B. Smith, Tosh, Vines, Bennett, G. McGill, Leding, V. Flowers, M.J. Gray, Nicks, Sabin,*
10 *M. Hodges, D. Whitaker, Johnson*

11

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For An Act To Be Entitled

13

AN ACT TO BE KNOWN AS THE CRIMINAL JUSTICE REFORM ACT
14 OF 2015; TO IMPLEMENT MEASURES DESIGNED TO ENHANCE
15 PUBLIC SAFETY AND REDUCE THE PRISON *POPULATION*; TO
16 *DECLARE AN EMERGENCY*; AND FOR OTHER PURPOSES.

17

18

19

Subtitle

20

*TO BE KNOWN AS THE CRIMINAL JUSTICE
21 REFORM ACT OF 2015; TO IMPLEMENT MEASURES
22 DESIGNED TO ENHANCE PUBLIC SAFETY AND
23 REDUCE THE PRISON POPULATION; AND TO
24 DECLARE AN EMERGENCY.*

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26

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

28

29 SECTION 1. DO NOT CODIFY. Legislative intent.

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SECTION 2. DO NOT CODIFY. Temporary legislation.



1 (a) The Department of Correction shall coordinate and, if
 2 advantageous, contract with counties, the federal government, governmental
 3 agencies of Arkansas and other states, counties, regional correctional
 4 facilities, political subdivisions of Arkansas, political subdivisions of
 5 other states, and private contractors to address the matter of this state's
 6 current prison overcrowding problem, as permitted by § 12-27-103(b)(14), in
 7 order to provide and improve correctional operations.

8 (b) The department shall submit a report to the Governor, Legislative
 9 Council, the Senate Judiciary Committee, and the House Committee on Judiciary
 10 by December 1, 2015, on its efforts under and successful contracting with an
 11 entity under subsection (a) of this section.

12 (c) This section expires on December 1, 2015.

13
 14 SECTION 3. Arkansas Code § 5-4-501(d)(2), concerning what is
 15 considered a "felony involving violence" for the purposes of the habitual
 16 offender statute, is amended to read as follows:

17 (2) As used in this subsection, "felony involving violence"
 18 means:

19 (A) Any of the following felonies:

20 (i) Murder in the first degree, § 5-10-102;

21 (ii) Murder in the second degree, § 5-10-103;

22 (iii) Kidnapping, § 5-11-102;

23 (iv) Aggravated robbery, § 5-12-103;

24 (v) Rape, § 5-14-103;

25 (vi) Battery in the first degree, § 5-13-201;

26 (vii) Terroristic act, § 5-13-310;

27 (viii) Sexual assault in the first degree, § 5-14-
 28 124;

29 (ix) Sexual assault in the second degree, § 5-14-
 30 125;

31 (x) Domestic battering in the first degree, § 5-26-
 32 303;

33 (xi) Residential burglary, § 5-39-201(a);

34 ~~(xi)~~(xii) Aggravated residential burglary, § 5-39-
 35 204;

36 ~~(xii)~~(xiii) Unlawful discharge of a firearm from a

1 vehicle, § 5-74-107;

2 ~~(xiii)~~(xiv) Criminal use of prohibited weapons, § 5-
3 73-104, involving an activity making it a Class B felony; or

4 ~~(xiv)~~(xv) A felony attempt, solicitation, or
5 conspiracy to commit:

6 (a) Capital murder, § 5-10-101;

7 (b) Murder in the first degree, § 5-10-102;

8 (c) Murder in the second degree, § 5-10-103;

9 (d) Kidnapping, § 5-11-102;

10 (e) Aggravated robbery, § 5-12-103;

11 (f) Rape, § 5-14-103;

12 (g) Battery in the first degree, § 5-13-201;

13 (h) Domestic battering in the first degree, §

14 5-26-303; ~~or~~

15 (i) Residential burglary, § 5-39-201(a); or

16 ~~(i)~~(j) Aggravated residential burglary, § 5-

17 39-204; or

18 (B) A conviction of a comparable felony involving violence
19 from another jurisdiction.

20

21 SECTION 4. Arkansas Code Title 10, Chapter 3, is amended to add an
22 additional subchapter to read as follows:

23

24 Subchapter 28 – Legislative Criminal Justice Oversight Task Force

25

26 10-3-2801. Legislative Criminal Justice Oversight Task Force.

27 (a)(1) There is created the Legislative Criminal Justice Oversight
28 Task Force responsible for studying the performance and outcome measures
29 related to this act.

30 (2) The Bureau of Legislative Research shall provide staff
31 support for the task force.

32 (b) The task force shall be composed of no more than *nineteen (19)*
33 members, as follows:

34 (1) No more than *eleven (11)* members may be appointed by the
35 Governor from the following persons:

36 (A) *One (1) or two (2) members who are circuit court*

1 judges and who operate a specialty court program as defined under § 16-10-
2 139(a);

3 (B) No more than one (1) county sheriff;

4 (C) No more than one (1) member from the Arkansas Public
5 Defender Commission;

6 (D) No more than (1) member who is a prosecuting attorney;

7 (E) No more than (1) member who is a member of the
8 executive board of the Arkansas Association of Chiefs of Police;

9 (F) No more than (2) members who are Medicaid providers;
10 and

11 (G) No more than three (3) at-large members in order to
12 reflect the racial, ethnic, gender, and geographical diversity of the state;

13 (2) One (1) member of the General Assembly to be appointed by
14 the President Pro Tempore of the Senate;

15 (3) One (1) member of the General Assembly to be appointed by
16 the Speaker of the House of Representatives;

17 (4) One (1) member who is the Chair of the Senate Judiciary
18 Committee;

19 (5) One (1) member who is the Chair of the House Committee on
20 Judiciary;

21 (6) The Chair of the Board of Corrections, or his or her
22 designee;

23 (7) The Chair of the Parole Board, or his or her designee;

24 (8) The Director of the Department of Correction, or his or her
25 designee; and

26 (9) The Director of the Department of Community Correction, or
27 his or her designee.

28 (c)(1) The task force shall meet on or before the thirtieth day after
29 the effective date of this act, at the call of the Chair of the Senate
30 Judiciary Committee, and organize itself by electing one (1) of its members
31 as chair and such other officers as the task force may consider necessary.

32 (2) Thereafter, the task force shall meet at least quarterly and
33 at the call of the chair or by a majority of the members.

34 (3) A quorum of the task force consists of seven (7) members.

35 (d) The task force has the following powers and duties:

36 (1) To track the implementation of and evaluate compliance with

1 this act;

2 (2) To review performance and outcome measure reports submitted
3 semiannually by the Department of Correction, Department of Community
4 Correction, Parole Board, Arkansas Sentencing Commission, and Specialty Court
5 Program Advisory Committee under this act and evaluate the impact; and

6 (3)(A) To prepare and submit an annual report of the performance
7 and outcome measures that are part of this act to the Legislative Council,
8 the Governor, and the Chief Justice of the Supreme Court.

9 (B) The annual report shall include recommendations for
10 improvements and a summary of savings generated from and the impact on public
11 safety as the result of this act.

12
13 *SECTION 5. Arkansas Code Title 10, Chapter 3, is amended to add an*
14 *additional subchapter to read as follows:*

15
16 *Subchapter 29 – Specialty Court Program Advisory Committee*

17
18 *10-3-2901. Specialty Court Program Advisory Committee.*

19 *(a) There is created a Specialty Court Program Advisory Committee.*

20 *(b) The Specialty Court Program Advisory Committee shall consist of*
21 *the following members:*

22 *(1) The Chief Justice of the Supreme Court or the Chief*
23 *Justice’s designee who shall serve as chair;*

24 *(2) The Director of the Administrative Office of the Courts or*
25 *the director’s designee;*

26 *(3) Three (3) circuit court judges who preside over a specialty*
27 *court program as defined under § 16-10-139(a) to be appointed by the Arkansas*
28 *Judicial Council;*

29 *(4) One (1) district court judge who presides over a specialty*
30 *court program as defined under § 16-10-139(a) to be appointed by the Arkansas*
31 *District Judges Council;*

32 *(5) One (1) circuit court judge who presides over a juvenile*
33 *drug court program to be appointed by the Arkansas Judicial Council;*

34 *(6) The Director of the Department of Community Correction or*
35 *the director’s designee;*

36 *(7) The Director of the Department of Human Services or the*

1 director's designee;

2 (8) The Director of the Division of Behavioral Health Services
3 or the director's designee;

4 (9) A prosecutor appointed by the Prosecutor Coordinator;

5 (10) A public defender appointed by the Executive Director of
6 the Arkansas Public Defender Commission;

7 (11) A member of the Senate appointed by the President Pro
8 Tempore of the Senate;

9 (12) A member of the House of Representatives appointed by the
10 Speaker of the House of Representatives; and

11 (13) The Arkansas Drug Director or the director's designee.

12 (c) The chair or the chair's designee shall promptly call the first
13 meeting within thirty (30) days after the effective date of this act.

14 (d)(1) The Specialty Court Program Advisory Committee shall conduct
15 its meetings at the State Capitol Building or at any place designated by the
16 chair or the chair's designee.

17 (2) Meetings shall be held at least one (1) time every three (3)
18 months but may occur more often at the call of the chair.

19 (e) If any vacancy occurs on the Specialty Court Program Advisory
20 Committee, the vacancy shall be filled by the same process as the original
21 appointment.

22 (f) The Specialty Court Program Advisory Committee shall establish
23 rules and procedures for conducting its business.

24 (g) Members of the Specialty Court Program Advisory Committee shall
25 serve without compensation.

26 (h) A majority of the members of the Specialty Court Program Advisory
27 Committee shall constitute a quorum for transacting any business of the
28 Specialty Court Program Advisory Committee.

29 (i) The Specialty Court Program Advisory Committee is established to:

30 (1) Promote collaboration and provide recommendations on issues
31 involving adult and juvenile specialty courts; and

32 (2) Design and complete the comprehensive evaluation of adult
33 and juvenile specialty court programs as required by § 16-10-139.

34
35 SECTION 6. Arkansas Code Title 10, Chapter 3, is amended to add an
36 additional subchapter to read as follows:

1
2 Subchapter 30 – Behavioral Health Treatment Access Legislative Task Force

3
4 10-3-3001. Behavioral Health Treatment Access Legislative Task Force

5 (a)(1) There is created a Behavioral Health Treatment Access
6 Legislative Task Force responsible for ensuring that persons in the criminal
7 justice system who have a demonstrated need for behavioral health treatment
8 have access to treatment.

9 (2) The Bureau of Legislative Research shall provide staff
10 support for the task force.

11 (b) The task force is composed of no more than nine (9) members, as
12 follows:

13 (1) No more than four (4) members may be appointed by the
14 Governor from the following persons:

15 (A) No more than one (1) member who is engaged in
16 providing substance abuse treatment in the private sector;

17 (B) No more than one (1) member who is engaged in
18 providing mental health treatment in the private sector; and

19 (C) No more than two (2) members of the general public who
20 advocate for access to behavioral health services;

21 (2) The Director of the Department of Community Corrections or
22 his or her designee;

23 (3) The Deputy Chief Counsel of the General Counsel Section for
24 the Department of Human Services or his or her designee;

25 (4) The Insurance Commissioner of the State Insurance Department
26 or his or her designee;

27 (5) One (1) member of the General Assembly to be appointed by
28 the President Pro Tempore of the Senate; and

29 (6) One (1) member of the General Assembly to be appointed by
30 the Speaker of the House of Representatives.

31 (c)(1) The task force shall meet on or before the thirtieth day after
32 the effective date of this act, at the call of the member of the General
33 Assembly appointed by the President Pro Tempore of the Senate, and organize
34 itself by electing such other officers as the task force may consider
35 necessary.

36 (2) Thereafter, the task force is to meet at least quarterly and

1 as often as necessary and at the call of the chair or a majority of the
2 members.

3 (3) A quorum of the task force consists of five (5) members.

4 (d) The task force has the following powers and duties:

5 (1) To facilitate access to behavioral health treatment
6 programs;

7 (2) To coordinate with other public and private entities to
8 develop and promote access;

9 (3) To take steps to reduce costs and encourage evidence-based
10 care;

11 (4) To assess feasibility and make recommendation for changes to
12 state programs to improve access; and

13 (5) To prepare and submit an annual report by December 1 of each
14 year to the Governor and the Legislative Council.

15

16 *SECTION 7. Arkansas Code § 12-27-113(e), concerning records kept by the*
17 *Department of Correction, is amended to read as follows:*

18 (e)(1) The director shall make and preserve a full and complete record
19 of ~~each and every person~~ inmate committed to the Department of Correction,
20 along with a photograph of the ~~person~~ inmate and data pertaining to his or
21 her trial conviction and past history.

22 (2)(A) To protect the integrity of ~~those~~ records described in
23 subdivision (e)(1) of this section and to ensure their proper use, it ~~shall~~
24 be is unlawful to permit inspection of or disclose information contained in
25 ~~those~~ records described in subdivision (e)(1) of this section or to copy or
26 issue a copy of all or part of ~~any record~~ a record described in subdivision
27 (e)(1) of this section except as authorized by ~~administrative regulation~~
28 rule, or by order of a court of competent jurisdiction.

29 (B) ~~The regulations~~ A rule under subdivision (e)(2)(A) of
30 this section shall provide for adequate standards of security and
31 confidentiality of ~~those~~ records described in subdivision (e)(1) of this
32 section.

33 (3) For those inmates committed to the Department of Correction
34 and judicially transferred to the Department of Community Correction, the
35 preparation of ~~this record~~ a record described in subdivision (e)(1) of this
36 section may be delegated to the Department of Community Correction pursuant

1 to policies applicable to records transmission adopted by the Board of
2 Corrections.

3 ~~(4) Administrative regulations~~ A rule under subdivision
4 (e)(2)(A) of this section may authorize the disclosure of information
5 contained in ~~such records~~ a record described in subdivision (e)(1) of this
6 section for research purposes.

7 (5)(A)(i) Upon written request, an employee of the Bureau of
8 Legislative Research acting on behalf of a member of the General Assembly may
9 view all records described in subdivision (e)(1) of this section of a current
10 or former inmate.

11 (ii) A request under subdivision (e)(5)(A)(i) of
12 this section shall be made in good faith.

13 (B) A view of records under subdivision (e)(5) of this
14 section by an employee may be performed only if the employee is assigned to
15 one (1) or more of the following committees:

16 (i) Senate Committee on Judiciary;

17 (ii) House Committee on Judiciary; or

18 (iii) Charitable, Penal and Correctional
19 Institutions Subcommittee of the Legislative Council.

20 (C) The Department of Correction shall ensure that the
21 employee authorized under subdivision (e)(5)(B) of this section to view
22 records is provided access to the records.

23 (D) A record requested to be viewed under subdivision
24 (e)(5) of this section is privileged and confidential and shall not be shown
25 to any person not authorized to have access to the record under this section
26 and shall not be used for any political purpose, including without limitation
27 political advertising, fundraising, or campaigning.

28
29 *SECTION 8. Arkansas Code Title 12, Chapter 27, is amended to add a new*
30 *section to read as follows:*

31 12-27-144. Department of Community Correction – Receipt of grant
32 money for certain purposes.

33 (a) The Department of Community Correction may receive money from any
34 source to be deposited into the Accountability Court Fund to be used for
35 adult and juvenile specialty court programs as defined under § 16-10-139,
36 based upon a formula to be developed by the Arkansas Judicial Council,

1 reviewed by the Specialty Courts Advisory Committee, and approved by the
2 Legislative Council

3 (b) The department may promulgate rules to implement this section.
4

5 SECTION 9. Arkansas Code Title 12, Chapter 27, is amended to add an
6 additional subchapter to read as follows:

7 Subchapter 2 – Pay-for-Success Act
8

9 12-27-201. Title.

10 This subchapter shall be known as the “Pay-for-Success Act”.
11

12 12-27-202. Legislative findings and intent.

13 (a) The General Assembly finds that:

14 (1) Incarceration and reincarceration are costly for the
15 government and for taxpayers;

16 (2) Certain intervention measures have been found to reduce
17 reincarceration rates;

18 (3) Pay-for-success contracts can serve as an effective tool for
19 addressing certain issues concerning Arkansas correctional facilities,
20 including overcrowding, by enabling the state to finance programs aimed at
21 reducing recidivism rates; and

22 (4) It is in the best interests of Arkansas residents to
23 encourage and enable the Department of Community Correction to obtain
24 financing for certain intervention services to reduce the recidivism rate in
25 Arkansas correctional facilities.

26 (b) The General Assembly intends for this subchapter to enable the
27 department to obtain private financing for intervention services on a pay-
28 for-success basis to reduce the reincarceration rate in Arkansas correctional
29 facilities.
30

31 12-27-203. Definitions.

32 As used in this subchapter:

33 (1) “Incarcerated” means the condition of being committed to a
34 state correctional facility; and

35 (2) “Pay-for-success program” means a program in which the
36 Department of Community Correction pays for intervention services only if

1 certain performance targets are met, including without limitation a reduction
2 in the reincarceration rate in Arkansas correctional facilities through
3 intervention measures that focus on improving personal responsibility and
4 decision making.

5
6 12-27-204. Pay-for-success programs.

7 (a) The Department of Community Correction may enter into an agreement
8 with entities, including without limitation licensed or accredited, as
9 applicable, community-based providers specializing in behavioral health, case
10 management, and job placement services, and two-year or four-year public
11 universities to create a pay-for-success program for incarcerated individuals
12 or individuals on parole or probation that requires the department to pay for
13 the intervention services only if the performance targets stated in the
14 agreement are achieved.

15 (b) Before entering into an agreement under subsection (a) of this
16 section, the department shall:

17 (1) Calculate the amount and timing of the payments that would
18 be earned by the entity providing the intervention services during each year
19 of the agreement if the performance targets are achieved; and

20 (2) Make a written determination that the agreement will result
21 in specific performance improvements and budgetary savings if the performance
22 targets are achieved.

23 (c) An agreement entered into under subsection (a) of this section:

24 (1) Shall include the following:

25 (A) A requirement that payment be conditioned on the
26 achievement of specific outcomes based on defined performance targets; and

27 (B) An agreement with an independent third party to
28 evaluate the pay-for-success program to determine whether the performance
29 targets have been achieved;

30 (2) May contain a graduated payment schedule to allow for
31 varying payments based on different levels of performance targets; and

32 (3) May include without limitation an agreement with one (1) or
33 more private entities regarding the following:

34 (A) One (1) or more loans to fund the pay-for-success
35 program's delivery and operations;

36 (B) One (1) or more guarantees for loans obtained under

1 this section;

2 (C) Payment based on reduced rates of reincarceration or
3 other agreed-upon measures of success; and

4 (D) Oversight and implementation of the pay-for-success
5 program, including without limitation the following:

6 (i) Making necessary financial arrangements;

7 (ii) Training staff;

8 (iii) Selecting service providers;

9 (iv) Overseeing the intervention measures;

10 (v) Monitoring pay-for-success program

11 participation; and

12 (vi) Designation of one (1) entity to serve as a
13 liaison among all parties to the agreement.

14
15 SECTION 10. Arkansas Code § 12-29-112 is amended to read as follows:
16 12-29-112. Discharge or release.

17 ~~(a) Inmates released upon completion of their term or released on~~
18 ~~parole shall be supplied with satisfactory clothing and a travel subsidy as~~
19 ~~prescribed by the Board of Corrections.~~

20 ~~(b) Upon release of any inmate from any unit or center of the~~
21 ~~Department of Correction, the department shall provide transportation for the~~
22 ~~inmate to the closest commercial transportation pick-up point.~~

23 (a) At least one hundred twenty (120) days before an inmate's
24 anticipated release date, the Department of Correction, in collaboration with
25 the inmate and the Department of Community Correction and the Parole Board,
26 shall complete a prerelease assessment and reentry plan, which may include a
27 travel subsidy and transportation to the closest commercial transportation
28 pick-up point.

29 (b) A copy of the reentry plan under this section shall be provided to
30 the inmate and the assigned parole officer, if applicable.

31 (c) An inmate released upon completion of his or her terms of
32 incarceration shall be provided:

33 (1) Written and certified proof that he or she completed and
34 satisfied all the terms of his or her incarceration; and

35 (2) Information on how to reinstate his or her voting rights
36 upon discharge of his or her sentence.

1
2 SECTION 11. Arkansas Code § 12-29-401(e), concerning the application
3 for Medicaid benefits on behalf of an inmate in the Department of Correction
4 or person in the custody of the Department of Community Correction, is
5 amended to add an additional subdivision to read as follows:

6 (5)(A) The Department of Human Services shall allow applications
7 for Medicaid coverage and benefits to be submitted up to forty-five (45) days
8 before the release of:

9 (i) An inmate or offender not previously qualified
10 or previously qualified and subsequently suspended; or

11 (ii) An inmate or offender, eighteen (18) years of
12 age or older, adjudicated as delinquent and not previously qualified or
13 previously qualified and subsequently suspended.

14 (B) To the extent feasible, the Department of Correction
15 and Department of Community Correction shall provide for Medicaid coverage
16 applications to be submitted online to the Department of Human Services.

17 (C) A sentencing order shall satisfy the identity
18 verification for Medicaid applications, if required for an application, and
19 if permitted by federal law.

20
21 SECTION 12. Arkansas Code Title 12, Chapter 29, Subchapter 4, is
22 amended to add an additional section to read as follows:

23 12-29-407. Medicaid suspension.

24 (a) When an individual who is enrolled in a Medicaid program or the
25 Health Care Independence Program is incarcerated to the custody of the
26 Department of Correction, the Department of Community Correction, or detained
27 in a county jail, city jail, juvenile detention facility, or other Division
28 of Youth Services commitment, the Department of Human Services shall suspend,
29 to the degree feasible, the individual's coverage during the period of
30 incarceration for up to twelve (12) months from the initial approval or
31 renewal, unless prohibited by law.

32 (b) When an individual with suspended Medicaid eligibility receives
33 eligible medical treatment or is released from custody, the Department of
34 Human Services shall reinstate, to the degree feasible, the individual's
35 coverage for up to twelve (12) months from the initial approval or renewal,
36 unless prohibited by law.

1 (c) The Department of Human Services shall ensure that the suspension
2 and reinstatement process is automated and that protocols are developed to
3 maximize Medicaid reimbursement for allowable medical services and essential
4 health benefits.

5
6 SECTION 13. Arkansas Code § 12-41-106, concerning the Medicaid
7 eligibility of an inmate in a local correctional facility, is amended to add
8 an additional subsection to read as follows:

9 (e) To the extent feasible, the Department of Human Services shall
10 allow an online application for Medicaid coverage and benefits to be
11 submitted up to forty-five (45) days prior to the release of an inmate or
12 offender who is in the custody of the Department of Corrections or Department
13 of Community Corrections and who was not previously qualified or previously
14 qualified and subsequently suspended.

15
16 SECTION 14. Arkansas Code Title 12, Chapter 41, Subchapter 1, is
17 amended to add a new section to read as follows:

18 12-41-107. Medical services billing to a local correctional facility.

19 (a) As used in this section:

20 (1) "Healthcare professional" means an individual or entity that
21 is licensed, certified, or otherwise authorized by the laws of this state to
22 administer health care in the ordinary course of the practice of his or her
23 profession or as a function of an entity's administration of the practice of
24 medicine;

25 (2) "Local correctional facility" means a county jail, a city
26 jail, regional jail, criminal justice center, or county house of correction
27 that is not operated by the Department of Correction, Department of Community
28 Correction, or a federal correctional agency; and

29 (3) "Medicaid reimbursement rate" means the prevailing cost paid
30 by the Arkansas Medicaid Program for a particular medical service or
31 treatment established by the Division of Medical Services of the Department
32 of Human Services in the Arkansas Medicaid Program fee schedules for a
33 particular medical service, treatment, or medical code.

34 (b) A healthcare professional that provides medical service or
35 treatment to a local correctional facility under this chapter for the benefit
36 of an inmate housed in a local correctional facility for which the local

1 correctional facility is responsible for payment shall not charge the local
2 correctional facility more than the Medicaid reimbursement rate for the same
3 or similar medical service or treatment.

4
5 SECTION 15. Arkansas Code Title 16, Chapter 10, Subchapter 1, is
6 amended to add an additional section to read as follows:

7 16-10-139. Specialty court program evaluation and approval.

8 (a) As used in this section, "specialty court program" means one of
9 the following:

10 (1) A pre-adjudication program under § 5-4-901;

11 (2) A approved drug court program under § 16-98-301 et seq.;

12 (3) A Swift and Certain Accountability on Probation Pilot
13 Program under § 16-93-1701 et seq.; and

14 (4) Any other specialty court program that has been approved by
15 the Supreme Court, including without limitation specialty court programs
16 known as:

17 (A) A DWI court;

18 (B) A mental health court;

19 (C) A veteran's court;

20 (D) A juvenile drug court;

21 (E) A "HOPE" court;

22 (F) A "smarter sentencing" court; and

23 (G) A mental health crisis intervention center.

24 (b) A specialty court program operated by a circuit court or
25 district court must be approved by the Supreme Court in the administrative
26 plan submitted under Supreme Court Administrative Order No. 14.

27 (c)(1) The Specialty Courts Advisory Committee shall evaluate and make
28 findings with respect to all specialty court programs operated by a circuit
29 court or district court in this state and refer the findings to the Supreme
30 Court.

31 (2) An evaluation under this section shall reflect nationally
32 recognized and peer-reviewed standards for each particular type of specialty
33 court program.

34 (3) The Specialty Court Program Advisory Committee shall also:

35 (A) Establish, implement, and operate a uniform specialty
36 court program evaluation process to ensure specialty court program resources

1 are uniformly directed to high-risk and medium-risk offenders and that
2 specialty court programs provide effective and proven practices that reduce
3 recidivism, as well as other factors such as substance dependency, among
4 participants;

5 (B) Establish an evaluation process that ensures that any
6 new and existing specialty court program that is a drug court meets standards
7 for drug court operation under § 16-98-302(b); and

8 (C) Promulgate rules to be approved by the Supreme Court
9 to carry out the evaluation process under this section.

10 (d) A specialty court program shall be evaluated under the following
11 schedule:

12 (1) A specialty court program established on or after the
13 effective date of this act shall be evaluated after its second year of funded
14 operation;

15 (2) A specialty court program in existence on the effective date
16 of this act shall be evaluated under the requirements of this section prior
17 to expending resources budgeted for fiscal year 2017; and

18 (3) A specialty court program shall be reevaluated every two (2)
19 years after the initial evaluation.

20
21 SECTION 16. Arkansas Code § 16-10-305(a)(6), concerning court costs for
22 possessing less than four ounces (4 oz.) of a Schedule VI controlled
23 substance, is repealed.

24 ~~(6)(A) In circuit court or district court, three hundred dollars~~
25 ~~(\$300) for possessing less than four ounces (4 oz.) of a Schedule VI~~
26 ~~controlled substance.~~

27 ~~(B) One hundred fifty dollars (\$150) of the court costs~~
28 ~~collected under subdivision (a)(6) of this section shall be remitted to the~~
29 ~~Treasurer of State by the court clerk for deposit into the Drug Abuse~~
30 ~~Prevention and Treatment Fund for the Division of Behavioral Health Services~~
31 ~~to be used exclusively for drug courts or other substance abuse and~~
32 ~~prevention activities; and~~

33
34 SECTION 17. Arkansas Code Title 16, Chapter 10, Subchapter 7, is
35 amended to add an additional section to read as follows:

36 16-10-701. Additional fees for specialty court programs.

1 (a) As used in this section:

2 (1) "Pre-adjudication" means the period of time after:

3 (A) The prosecuting attorney files a criminal information
4 or an indictment is filed in circuit court;

5 (B) The person named in the criminal information or
6 indictment is arraigned on the charge in circuit court; and

7 (C) The person enters a specialty court program without a
8 guilty plea or the person enters a plea of guilty but before the circuit
9 court enters a judgment and pronounces a sentence against the person; and

10 (2) "Specialty court program" means:

11 (A) A preadjudication program under § 5-4-901;

12 (B) An approved drug court program under § 16-98-301 et
13 seq.;

14 (C) A Swift and Certain Accountability on Probation Pilot
15 Program under § 16-93-1701 et seq.; and

16 (D) Any other specialty court program that has been
17 approved by the Supreme Court, including without limitation specialty court
18 programs known as:

19 (i) A DWI court;

20 (ii) A mental health court;

21 (iii) A veteran's court;

22 (iv) A juvenile drug court;

23 (v) A "HOPE" court;

24 (vi) A "smarter sentencing" court; and

25 (vii) A mental health crisis intervention center.

26 (b) In addition to any other court cost or court fee provided by law:

27 (1) A specialty court program user fee of up to two hundred
28 fifty dollars (\$250) shall be assessed on any participant in a specialty
29 court program and remitted to the Administration of Justice Funds Section of
30 the Department of Finance and Administration by the court clerk for deposit
31 into the State Treasury as special revenues credited to the Specialty Court
32 Program Fund; and

33 (2) A specialty court program public defender user fee not to
34 exceed two hundred fifty dollars (\$250) may be assessed by the court for a
35 defendant who participates in a specialty court program designed for
36 preadjudication purposes and who is appointed representation by a public

1 defender and remitted to the Administration of Justice Funds Section of the
2 Department of Finance and Administration by the court clerk for deposit into
3 the State Treasury to the credit of the Public Defender User Fee Fund within
4 the State Central Services Fund.

5 (c) A district court or circuit court may not assess and collect a fee
6 under this section if the district court or circuit court is operating a
7 specialty court program that has not been previously approved by or no longer
8 meets the approval criteria of the Supreme Court.

9
10 SECTION 18. Arkansas Code § 16-93-101, concerning definitions, is
11 amended to add an additional subdivision to read as follows:

12 (12) "Detriment to the community" means a person who has:

13 (A) Demonstrated a pattern of behavior that indicates disregard
14 for the safety and welfare of others;

15 (B) Exhibited violence or repeated violent tendencies;

16 (C) Has been convicted of a felony involving violence, as
17 defined under § 5-4-501(d)(2); or

18 (D) During the three (3) calendar years before the person's
19 parole hearing:

20 (i) Demonstrated a documented lack of respect for
21 authority towards law enforcement or prison officials while in the custody of
22 the Department of Correction, the Department of Community Correction, or a
23 law enforcement agency; or

24 (ii) Accrued multiple disciplinary violations while in the
25 custody of the Department of Correction, the Department of Community
26 Correction, or a law enforcement agency, including at least one (1)
27 disciplinary violation involving violence or sexual assault while in the
28 custody of the Department of Correction, the Department of Community
29 Correction, or a law enforcement agency.

30
31 SECTION 19. Arkansas Code Title 16, Chapter 93, Subchapter 1, is
32 amended to add an additional section to read as follows:

33 16-93-106. Warrantless search by any law enforcement officer for a
34 probationer or parolee.

35 (a)(1) A person who is placed on supervised probation or is released
36 on parole under this chapter is required to agree to a waiver as a condition

1 of his or her supervised probation or parole that allows any certified law
2 enforcement officer or Department of Community Correction officer to conduct
3 a warrantless search of his or her person, place of residence, or motor
4 vehicle at any time, day or night, whenever requested by the certified law
5 enforcement officer or Department of Community Correction officer.

6 (2) A warrantless search that is based on a waiver required by
7 this section shall be conducted in a reasonable manner but does not need to
8 be based on an articulable suspicion that the person is committing or has
9 committed a criminal offense.

10 (b)(1) A person who will be placed on supervised probation or parole
11 and is required to agree to the waiver required by this section shall
12 acknowledge and sign the waiver.

13 (2) If the person fails to acknowledge and sign the waiver
14 required by this section, he or she is ineligible to be placed on supervised
15 probation or parole.

16
17 SECTION 20. Arkansas Code Title 16, Chapter 93, Subchapter 1, is
18 amended to add an additional section to read as follows:

19 16-93-107. Medicaid eligibility of a parolee or a probationer.

20 (a) The Department of Correction shall screen inmates nearing release
21 from incarceration and the Department of Community Correction shall screen
22 parolees and probationers under supervision for Medicaid eligibility.

23 (b) If an inmate nearing release from incarceration, parolee, or
24 probationer receives medical services, including substance abuse and mental
25 health treatment, that meet criteria for Medicaid coverage, the parole
26 officer, probation officer, or Department of Correction official or Department
27 of Community Correction official may apply for Medicaid coverage for the
28 inmate nearing release from incarceration, parolee, or probationer under this
29 section.

30 (c)(1) The inmate nearing release from incarceration, parolee, or
31 probationer may designate an authorized representative for the purposes of
32 filing a Medicaid application and complying with Medicaid requirements for
33 determining and maintaining eligibility.

34 (2) However, the parole officer, probation officer, or
35 Department of Correction official or Department of Community Correction
36 official shall be the authorized representative for purposes of establishing

1 and maintaining Medicaid eligibility under this subsection if:

2 (A) The inmate nearing release from incarceration,
3 parolee, or probationer does not designate an authorized representative
4 within three (3) business days after request; or

5 (B) The authorized representative designated under
6 subdivision (c)(1) of this section does not file a Medicaid application
7 within three (3) business days after appointment and request.

8 (d) An authorized representative under this section:

9 (1) Shall have access to the information necessary to comply
10 with Medicaid requirements; and

11 (2) May provide and receive information in connection with
12 establishing and maintaining Medicaid eligibility, including confidential
13 information.

14 (e)(1) The parole officer, probation officer, or Department of
15 Correction official or Department of Community Correction official or the
16 designee of the parole officer, probation officer, or Department of
17 Correction official or Department of Community Correction official may access
18 information necessary to determine if a Medicaid application has been filed
19 on behalf of the inmate nearing release from incarceration, parolee, or
20 probationer.

21 (2) Access under subdivision (e)(1) of this section shall be to:

22 (A) Establish Medicaid eligibility;

23 (B) Provide healthcare services; or

24 (C) Pay for healthcare services.

25 (f) As used in this section, "Medicaid eligibility" means eligibility
26 for any healthcare coverage offered by the Department of Human Services.

27
28 SECTION 21. Arkansas Code Title 16, Chapter 93, Subchapter 1, is
29 amended to add additional sections to read as follows:

30 16-93-108. Mental health and substance abuse treatment.

31 A parolee or probationer who is enrolled in a Medicaid program shall be
32 referred to mental health or substance abuse treatment, or both, when the
33 referral is included as part of a court order, supervision plan, or treatment
34 plan.

35
36 16-93-109. Medicaid reimbursement for essential healthcare services.

1 Unless otherwise prohibited by law, the Department of Human Services
 2 shall cooperate with the Department of Correction and the Department of
 3 Community Correction to establish protocols for utilizing Medicaid to
 4 reimburse the Department of Correction, Department of Community Correction,
 5 Division of Behavioral Health Services, Division of Youth Services, a
 6 healthcare provider, or a third party for essential healthcare services,
 7 including mental health and substance abuse treatment.

8
 9 16-93-110. Contracting with Medicaid provider.

10 The Department of Correction and the Department of Community Correction
 11 each may contract with a provider in order to facilitate the enrollment of an
 12 inmate, a probationer, or a parolee in Medicaid.

13
 14 SECTION 22. Arkansas Code § 16-93-201 is amended to read as follows:

15 16-93-201. Creation – Members – Qualifications and training.

16 (a)(1) There is created the Parole Board, to be composed of seven (7)
 17 members to be appointed from the state at large by the Governor and confirmed
 18 by the Senate.

19 (2)(A)(i) ~~Seven (7) members~~ A member of the board shall be a
 20 full-time official of this state, one (1) of whom shall be
 21 designated by the Governor as the chair of the board and shall not have any
 22 other employment for the duration of his or her appointment to the board.

23 (ii)(a) A member of the board who is currently
 24 -serving as of the effective date of this act shall terminate any other
 25 employment that has not been approved as required by subdivision
 26 (a)(2)(A)(ii)(b) of this section.

27 (b) A member may engage in employment that has
 28 a limited time commitment with approval from the Chair of the Parole Board.

29 (B)(i) The Governor shall appoint one (1) member as the
 30 chair who shall be the chief executive, administrative, budgetary, and fiscal
 31 officer of the board and the chair shall serve at the will of the Governor.

32 (ii) The chair shall have general supervisory duties
 33 over the members and staff of the board but may not remove a member of the
 34 board except as provided under subsection (e) of this section.

35 (iii) The board may review and approve budget and
 36 personnel requests prior to submission for executive and legislative

1 approval.

2 (C) The board shall elect from its membership a vice chair
3 and a secretary who shall assume, in that order and with the consent of the
4 Governor, the duties of the chair in the case of extended absence, vacancy,
5 or other similar disability of the chair until the Governor designates a new
6 chair of the board.

7 (3) Each member shall serve a seven-year term, except that the
8 terms shall be staggered by the Governor so that the term of one (1) member
9 expires each year.

10 (4)(A) A member ~~must~~ shall have at least a bachelor's degree
11 from an accredited college or university, and the member should have no less
12 than five (5) years' professional experience in one (1) or more of the
13 following fields:

- 14 (i) Parole supervision;
15 (ii) Probation supervision;
16 (iii) Corrections;
17 (iv) Criminal justice;
18 (v) Law;
19 (vi) Law enforcement;
20 (vii) Psychology;
21 (viii) Psychiatry;
22 (ix) Sociology;
23 (x) Social work; or

24 (b) If any vacancy occurs on the board prior to the expiration of a
25 term, the Governor shall fill the vacancy for the remainder of the unexpired
26 term, subject to confirmation by the Senate at its next regular session.

27 (c) The members of the board may receive expense reimbursement and
28 stipends in accordance with § 25-16-901 et seq.

29 (d)(1) Four (4) members of the board shall constitute a quorum for the
30 purpose of holding an official meeting.

31 (2) However, the affirmative vote of at least five (5) of the
32 members of the board is required for any action by the board.

33 (e)(1) A member of the board may be removed by the Governor after the
34 Governor has received notification from the chair that the member:

35 (A) Has been derelict in his or her duties as a member of
36 the board; or

1 (B) No longer meets the eligibility requirements to serve
2 as a member of the board.

3 (2) The member of the board who has been reported to the
4 Governor under subdivision (e)(1) of this section shall receive written
5 notice of the notification by the chair to the Governor and the member of the
6 board shall be allowed an opportunity to respond within seven (7) days.

7
8 SECTION 23. Arkansas Code § 16-93-202, concerning records and reports
9 of the Parole Board, is amended to add an additional subsection to read as
10 follows:

11 (e)(1)(A) Upon written request, a member of the General Assembly or an
12 employee of the House of Representatives, Senate, or the Bureau of
13 Legislative Research acting on the member's behalf may view all
14 classification, disciplinary, demographic, and parole hearing records of a
15 current or former inmate or parolee who is currently or was formerly granted
16 parole by the board.

17 (B) A request made on behalf of a member of the General
18 Assembly shall be made in good faith.

19 (2) A view of records under subdivision (e)(1) of this section
20 by an employee may be performed only if the employee is assigned to one (1)
21 or more of the following committees:

22 (A) Senate Committee on Judiciary;

23 (B) House Committee on Judiciary; or

24 (C) Charitable, Penal and Correctional Institutions
25 Subcommittee of the Legislative Council.

26 (3) The board shall ensure that the employee authorized under
27 subdivision (e)(2) of this section to view records is provided access to the
28 records.

29 (4) A record requested to be viewed under subdivision (e)(1) of
30 this section is privileged and confidential and shall not be shown to any
31 person not authorized to have access to the record under this section and
32 shall not be used for any political purpose, including without limitation
33 political advertising, fundraising, or campaigning.

34
35 SECTION 24. Arkansas Code § 16-93-612(e), concerning parole
36 eligibility procedures for offenses that occurred after January 1, 1994, is

1 amended to read as follows:

2 (e) For an offender serving a sentence for a felony committed on or
3 after January 1, 1994, § 16-93-614 governs that person's parole eligibility,
4 unless otherwise noted and except:

5 (1) If the felony is murder in the first degree, § 5-10-102,
6 kidnapping, if a Class Y felony, § 5-11-102(b)(1), aggravated robbery, § 5-
7 12-103, rape, § 5-14-103, or causing a catastrophe, § 5-38-202(a), and the
8 offense occurred after July 28, 1995, § 16-93-618 governs that person's
9 parole eligibility; ~~or~~

10 (2) If the felony is manufacturing methamphetamine, § 5-64-
11 423(a) or the former § 5-64-401, or possession of drug paraphernalia with the
12 intent to manufacture methamphetamine, the former § 5-64-403(c)(5), and the
13 offense occurred after April 9, 1999, § 16-93-618 governs that person's
14 parole eligibility; or

15 (3) If the felony is battery in the second degree, § 5-13-202,
16 aggravated assault, § 5-13-204, terroristic threatening, § 5-13-301, domestic
17 battering in the second degree, § 5-26-304, or residential burglary, § 5-39-
18 201, and the offense occurred on or after the effective date of this act, §
19 16-93-619 governs that person's parole eligibility.

20

21 SECTION 25. Arkansas Code § 16-93-615(a)(5), concerning inmate
22 interviews by the Parole Board, is amended to read as follows:

23 (5) Inmate interviews and related deliberations may be closed to
24 the public.

25

26 SECTION 26. Arkansas Code Title 16, Chapter 93, Subchapter 6, is
27 amended to add a new section to read as follows:

28 16-93-619. Parole eligibility procedures – Certain offenses committed
29 on or after the effective date of this act.

30 (a) An inmate sentenced for one (1) of the following felonies on or
31 after the effective date of this act is eligible for discretionary transfer
32 to the Department of Community Correction by the Parole Board after having
33 served one-third (1/3) or one-half (1/2) of his or her sentence, with credit
34 for meritorious good time, depending on the seriousness determination made by
35 the Arkansas Sentencing Commission, or one-half (1/2) of the time to which
36 his or her sentence is commuted:

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

2 (2) Aggravated assault, § 5-13-204;

3 (3) Terroristic threatening, § 5-13-301;

4 (4) Domestic battering in the second degree, § 5-26-304; or

5 (5) Residential burglary, § 5-39-201.

6 (b) The transfer of an inmate convicted of an offense listed in this
7 section is not automatic.

8 (c) All other provisions governing the procedures regarding the
9 granting and administration of parole for persons convicted of an offense
10 listed under subsection (a) of this section shall be governed by §§ 16-93-615
11 - 16-93-617.

12
13 *SECTION 27. Arkansas Code § 16-93-708 is amended to read as follows:*
14 *16-93-708. Parole alternative – Home detention.*

15 *(a) As used in this section:*

16 *(1) “Approved electronic monitoring or supervising device” means*
17 *an electronic device approved by the Board of Corrections that meets the*
18 *minimum Federal Communications Commission regulations and requirements, and*
19 *that utilizes available technology that is able to track a person’s location*
20 *and monitor his or her location;*

21 *(2) “Hospice” means an autonomous, centrally administered,*
22 *medically directed, coordinated program providing a continuum of home,*
23 *outpatient, and homelike inpatient care for the terminally ill patient and*
24 *the patient’s family, and which employs an interdisciplinary team to assist*
25 *in providing palliative and supportive care to meet the special needs arising*
26 *out of the physical, emotional, spiritual, social, and economic stresses that*
27 *are experienced during the final stages of illness and during dying and*
28 *bereavement;*

29 ~~(2)(3)~~ *“Permanently incapacitated” means an inmate who, as*
30 *determined by a licensed physician:*

31 *(A) Has a medical condition that is not necessarily*
32 *terminal but renders him or her permanently and irreversibly incapacitated;*
33 *and*

34 *(B) Requires immediate and long-term care; and*

35 ~~(3)(4)~~ *“Terminally ill” means an inmate who, as determined by a*
36 *licensed physician:*

1 (A) Has an incurable condition caused by illness or
2 disease; and

3 (B) Will likely die within two (2) years due to the
4 illness or disease.

5 (b)(1)(A) Subject to the provisions of subdivision (b)(2) of this
6 section, a defendant convicted of a felony or misdemeanor and sentenced to
7 imprisonment may be incarcerated in a home detention program when the
8 Director of the Department of Correction or the Director of the Department of
9 Community Correction ~~shall communicate~~ communicates to the Parole Board when,
10 in the independent opinions of either a Department of Correction physician or
11 Department of Community Correction physician and a consultant physician in
12 Arkansas, an inmate is either terminally ill, ~~or~~ permanently incapacitated,
13 or would be suitable for hospice care and should be considered for transfer
14 to parole supervision.

15 (B) The Director of the Department of Correction or the
16 Director of the Department of Community Correction shall make the facts
17 described in subdivision (b)(1)(A) of this section known to the Parole Board
18 for consideration of early release to home detention.

19 (2) The Board of Corrections shall promulgate rules that will
20 establish policy and procedures for incarceration in a home detention
21 program.

22 (c)(1) In all instances ~~where~~ in which the Department of Correction
23 may release any inmate to community supervision, in addition to all other
24 conditions that may be imposed by the Department of Correction, the
25 Department of Correction may require the criminal defendant to participate in
26 a home detention program.

27 (2)(A) The term of the home detention shall not exceed the
28 maximum number of years of imprisonment or supervision to which the inmate
29 could be sentenced.

30 (B) The length of time the defendant participates in a
31 home detention program and any good-time credit awarded shall be credited
32 against the defendant's sentence.

33 (d)(1) The Board of Corrections shall establish policy and procedures
34 for participation in a home detention program, including, but not limited to,
35 program criteria, terms, and conditions of release.

36 (2) An inmate who is not serving a sentence of life without

1 parole who is released on parole under this section because he or she is
 2 terminally ill, permanently incapacitated, or would be suitable for hospice
 3 care may be released to the care of his or her family or to a friend or a
 4 facility, subject to board approval.

5 (e) If the medical condition of a inmate who is released under this
 6 section because he or she is terminally ill, permanently incapacitated, or
 7 would be suitable for hospice care changes to the point that the inmate is no
 8 longer terminally ill, permanently incapacitated, or would be suitable for
 9 hospice care, the inmate shall be returned to the custody of the Department
 10 of Correction and shall be required to be reconsidered for parole.

11
 12 SECTION 28. Arkansas Code § 16-93-711(b)(1)(A), concerning the
 13 requirement for electronic monitoring on parole, is amended to read as
 14 follows:

15 (b)(1)(A) Subject to the provisions of subdivision (b)(2) of this
 16 section, an inmate serving a sentence in the Department of Correction may be
 17 released from incarceration if the:

18 (i) Sentence was not the result of a jury or bench
 19 verdict;

20 (ii) Inmate has served one hundred twenty (120) days
 21 of his or her sentence;

22 (iii) Inmate has an approved parole plan;

23 (iv) Inmate does not have a prior felony conviction
 24 for a sex offense or for a felony offense that involved the use or threat of
 25 violence or bodily harm;

26 ~~(iv)(v)~~ Inmate was sentenced from a cell in the
 27 sentencing guidelines ~~that does not include incarceration in the presumptive~~
 28 ~~range with:~~

29 (a) An incarceration range of thirty-six (36)
 30 months or less; or

31 (b) A presumptive sentence of probation;

32 ~~(v)(vi)~~ Conviction is for a Class C or Class D
 33 felony;

34 ~~(vi)(vii)~~ Conviction is not for a crime of violence,
 35 regardless of felony level;

36 ~~(vii)(viii)~~ Conviction is not a sex offense,

1 including failure to register as a sex offender under § 12-12-906, regardless
2 of felony level;

3 ~~(viii)~~(ix) Conviction is not for manufacturing
4 methamphetamine, § 5-64-423(a) or the former § 5-64-401;

5 ~~(ix)~~(x) Conviction is not for possession of drug
6 paraphernalia with the purpose to manufacture methamphetamine, § 5-64-443, if
7 the conviction is a Class C felony or higher;

8 ~~(x)~~(xi) Conviction is not for a crime involving the
9 use or threat of violence or bodily harm;

10 ~~(xi)~~(xii) Conviction is not for a crime that
11 resulted in a death; and

12 ~~(xii)~~(xiii) Inmate has not previously failed a drug
13 court program.

14
15 SECTION 29. Arkansas Code § 16-93-712(d)(2), concerning the authority
16 to sanction a parolee administratively by the Department of Community
17 Correction, is amended to read as follows:

18 (2)(A)(i) The department shall develop an intermediate sanctions
19 procedure and grid to guide a parole officer in determining the appropriate
20 response to a violation of conditions of supervision.

21 (ii) The intermediate sanctions procedure shall
22 include a requirement that the parole officer consider multiple factors when
23 determining the sanction to be imposed, including previous violations and
24 sanctions and the severity of the current and prior violation.

25 (B) Intermediate sanctions administered by the department
26 are required to conform to the sanctioning grid.

27
28 SECTION 30. Arkansas Code Title 16, Chapter 93, Subchapter 7, is
29 amended to add an additional section to read as follows:

30 16-93-713. Denial of parole – Detriment to the community.

31 The Parole Board may deny parole to any otherwise eligible person,
32 regardless of the sentence that he or she is serving, if five (5) members of
33 the board determine that the person upon release would be a detriment to the
34 community into which the person would be released.

35
36 SECTION 31. Arkansas Code § 16-98-301(b)(1), concerning the definition

1 of "evidence-based practices" under the Arkansas Drug Court Act, is amended
2 to read as follows:

3 (1) "Evidence-based practices" means supervision, policies,
4 procedures, and practices proven through research to reduce recidivism;

5
6 SECTION 32. Arkansas Code § 16-98-303(a), concerning the structure,
7 method, and operation of a drug court, is amended to read as follows:

8 (a)(1) Each judicial district of this state is authorized to establish
9 a drug court program under this subchapter.

10 (2) A drug court established under this subchapter shall be
11 approved under § 16-10-139.

12 ~~(2)(A) The structure, method, and operation of each drug court~~
13 ~~program may differ and should be based upon the specific needs of and~~
14 ~~resources available to the judicial district where the drug court program is~~
15 ~~located.~~

16 ~~(B)(i)(3)(A)~~ A drug court program may be preadjudication or
17 postadjudication for an adult *offender* or a juvenile offender.

18 ~~(ii)(B)~~ A juvenile drug court program or services may be
19 *used in a delinquency case or a family in need of services case* ~~pursuant to a~~
20 ~~diversion agreement under § 9-27-323.~~

21 ~~(iii)(C)~~ A juvenile drug court program or services may be
22 used in a dependency-neglect case under § 9-27-334.

23 ~~(3)(4)~~ Notwithstanding the authorization described in
24 subdivision (a)(1) of this section, ~~ne~~ a judge of a circuit court, drug
25 court, or juvenile court may not order any services or treatment under
26 subsection (b) of this section or § 16-98-305 unless:

27 (A) An administrative and programmatic appropriation has
28 been made for those purposes;

29 (B) Administrative and programmatic funding is available
30 for those purposes; and

31 (C) Administrative and programmatic positions have been
32 authorized for those purposes.

33 (5)(A) As determined by the Department of Community Correction,
34 an adult drug court program established under this section shall target high-
35 risk offenders and medium-risk offenders.

36

1 SECTION 33. Arkansas Code § 16-98-303(b)(2), concerning the duties of
 2 the Department of Community Correction under the Arkansas Drug Court Act, is
 3 amended to read as follows:

4 (2) *Subject to an appropriation, funding, and position*
 5 *authorization, both programmatic and administrative, the Department of*
 6 *Community Correction:*

7 (A) ~~shall~~ Shall:

8 (i) Establish standards regarding the classification
 9 of a drug court program participant as a high-risk offender or medium-risk
 10 offender;

11 ~~(A)(ii)~~ *Provide positions for persons to serve as*
 12 *probation officers, drug counselors, and administrative assistants;*

13 ~~(B)(iii)~~ *Provide for drug testing for drug court*
 14 *program participants;*

15 ~~(C)(iv)~~ *Provide for intensive outpatient treatment*
 16 *for drug court program participants;*

17 ~~(D)(v)~~ *Provide for intensive short-term and long-*
 18 *term residential treatment for drug court program participants; and*

19 ~~(E)(vi)~~ *Develop clinical assessment capacity,*
 20 *including drug testing, to identify ~~participants~~ a drug court program*
 21 *participant with a substance addiction and develop a treatment protocol that*
 22 *improves the ~~person's~~ drug court program participant's likelihood of*
 23 *success; and*

24 (B) May:

25 (i) Provide for continuous alcohol monitoring for
 26 drug court program participants, including a minimum period of one hundred
 27 twenty (120) days; and

28 (ii) Develop clinical assessment capacity,
 29 including continuous alcohol monitoring, to identify a drug court program
 30 participant with a substance addiction and develop a treatment protocol that
 31 improves the drug court program participant's likelihood of success.

32
 33 SECTION 34. Arkansas Code § 16-98-303(b)(4)(B), concerning the
 34 responsibilities of the Administrative Office of the Courts pertaining to
 35 drug courts, is amended to read as follows:

36 (B) Administer funds for the maintenance and operation of

1 local approved drug court programs;

2

3 SECTION 35. Arkansas Code § 16-98-303(f)(6), concerning the duties of
4 the Drug Court Coordinator, is amended to read as follows:

5 (6) Oversee the disbursement of funds appropriated to the
6 Administrative Office of the Courts for the maintenance and operation of
7 local approved drug court programs based on a formula developed by the
8 Administrative Office of the Courts and reviewed by the ~~Drug Court Advisory~~
9 Specialty Court Program Advisory Committee; and

10

11 SECTION 36. Arkansas Code § 16-98-304 is amended to read as follows:
12 16-98-304. Cost and fees.

13 (a) The adult or juvenile drug court judge may order the offender to
14 pay:

15 (1) Court costs as provided in § 16-10-305;

16 (2) Treatment costs;

17 (3) Drug testing costs;

18 (4) A local program user fee;

19 (5) Necessary supervision fees, including any applicable
20 residential treatment fees; ~~and~~

21 (6) Any fees determined or authorized under § 12-27-
22 125(b)(17)(B) or § 16-93-104(a)(1) ~~which that~~ are to be paid to the
23 Department of Community Correction;

24 (7) Global Positioning System monitoring; and

25 (8) Continuous alcohol monitoring fees.

26 (b)(1) The drug court judge shall establish a schedule for the payment
27 of costs and fees.

28 (2) The cost for treatment, drug testing, continuous alcohol
29 monitoring if ordered, and supervision shall be set by the treatment and
30 supervision providers respectively and made part of the order of the drug
31 court judge for payment.

32 (3) Program user fees shall be set by the drug court judge.

33 (4) Treatment, drug testing, continuous alcohol monitoring if
34 ordered, and supervision costs or fees shall be paid to the respective
35 providers.

36 (5) Fees determined or authorized under § 12-27-125(b)(17)(B) or

1 § 16-93-104(a)(1) shall be paid to the Department of Community Correction.

2 ~~(6)(A) The MAGNUM Drug Court Fund is a special revenue fund~~
3 ~~created and established on the books of the Treasurer of State, the Auditor~~
4 ~~of State, and the Chief Fiscal Officer of the State.~~

5 ~~(B) The MAGNUM Drug Court Fund shall consist of other~~
6 ~~moneys provided by law.~~

7 ~~(7)(A)(6)(A)~~ All court costs and program user fees assessed by
8 the drug court judge shall be paid to the court clerk for remittance to the
9 county treasury under § 14-14-1313.

10 (B) All installment payments shall initially be deemed to
11 be collection of court costs under § 16-10-305 until the court costs have
12 been collected in full with any remaining payments representing collections
13 of other fees and costs as authorized in this section and shall be credited
14 to the county administration of justice fund and distributed under § 16-10-
15 307.

16 (C) ~~All~~ Local program user fees shall be credited to a
17 fund known as the drug court program fund and appropriated by the quorum
18 court for the benefit and administration of the drug court program.

19 ~~(8)(7)~~ Court orders for costs and fees shall remain an
20 obligation of the offender with court monitoring until fully paid.

21
22 SECTION 37. The lead-in language to Arkansas Code § 16-98-305,
23 concerning the required resources of a drug court program, is amended to read
24 as follows:

25 Each approved drug court program established under this subchapter,
26 subject to an appropriation, funding, and position authorization, both
27 programmatic and administrative, shall be provided with the following
28 resources:

29
30 SECTION 38. Arkansas Code § 16-98-305(1)(E)(iii), concerning
31 expenditures of funds for treatment services allocated to each drug court
32 program, is amended to read as follows:

33 (iii) Expenditures of funds for treatment services
34 allocated to each approved drug court program under the formula described in
35 subdivision (1)(E)(i) of this section shall be at the direction of a drug
36 court judge, except as limited by the procedures adopted in the memorandum of

1 understanding described in subdivision (1)(E)(ii) of this section;

2
3 SECTION 39. Arkansas Code § 16-98-305(3), concerning the duties of the
4 Administrative Office of the Courts under the Drug Court Act, is amended to
5 read as follows:

6 (3) The Administrative Office of the Courts shall:

7 (A) Provide funding to be reviewed by the ~~Drug Court~~
8 Specialty Court Program Advisory Committee for additional ongoing maintenance
9 and operation costs of a local approved drug court programs program not
10 provided by the Department of Community Correction or the Department of Human
11 Services, including local drug court program supplies, education, travel, and
12 related expenses;

13 (B) Provide direct support to the drug court judge and
14 drug court program;

15 (C) Provide coordination between the multidisciplinary
16 team and the drug court judge;

17 (D) Provide case management;

18 (E) Monitor compliance of drug court participants with
19 drug court program requirements; and

20 (F) ~~Provide drug court program evaluation and~~
21 ~~accountability~~ Provide assistance and support to the Specialty Court Advisory
22 Committee for the evaluation of adult and juvenile specialty court programs.

23
24 SECTION 40. Arkansas Code § 16-98-306 is amended to read as follows:
25 16-98-306. Collection of data.

26 (a)(1) A An approved drug court program shall collect and provide
27 monthly data on drug court applicants and all participants as required by the
28 ~~Division of Drug Court Programs within the Administrative Office of the~~
29 ~~Courts~~ Specialty Court Program Advisory Committee in accordance with the
30 rules promulgated under § 16-98-307 § 10-3-2901.

31 (2) The data shall include:

32 (A) The total number of applicants;

33 (B) The total number of participants;

34 (C) The total number of successful applicants;

35 (D) The total number of successful participants;

36 (E) The total number of unsuccessful participants and the

1 reason why each unsuccessful participant did not complete the program;

2 (F) Information about what happened to each unsuccessful
3 participant;

4 (G) The total number of participants who were arrested for
5 a new criminal offense while in the drug court program;

6 (H) The total number of participants who were convicted of
7 a new criminal offense while in the drug court program;

8 (I) The total number of participants who committed a
9 violation of one (1) or more conditions of the drug court program and the
10 resulting sanction;

11 (J) The results of the initial risk-needs assessment
12 ~~review for each participant or other appropriate clinical assessment~~
13 conducted on each participant; and

14 (K) The total amount of time each program participant was
15 in the program; and

16 ~~(K)(L) Any other data or information as required by the~~
17 ~~Division of Drug Court Programs within the Administrative Office of the~~
18 ~~Courts Specialty Court Program Advisory Committee in accordance with the~~
19 ~~rules promulgated under § 16-98-307 § 10-3-2901.~~

20 (b) The data collected for evaluation purposes under subsection (a) of
21 this section shall:

22 (1) Include a minimum standard data set developed and specified
23 by the ~~Division of Drug Court Programs~~ Specialty Court Program Advisory
24 Committee; and

25 (2) Be maintained in the court files or be otherwise accessible
26 by the courts and the ~~Division of Drug Court Programs~~ Specialty Court Program
27 Advisory Committee.

28 (c)(1) As directed by the ~~Division of Drug Court Programs~~ Specialty
29 Court Program Advisory Committee, after an individual is discharged either
30 upon completion or termination of a drug court program, the drug court
31 program shall conduct, as much as practical, follow-up contacts with and
32 reviews of former drug court participants for key outcome indicators of drug
33 use, recidivism, and employment.

34 (2)(A) The follow-up contacts with and reviews of former drug
35 court participants shall be conducted as frequently and for a period of time
36 as determined by the ~~Division of Drug Court Programs~~ Specialty Court Program

1 Advisory Committee based upon the nature of the drug court program and the
2 nature of the participants.

3 (B) The follow-up contacts with and reviews of former drug court
4 participants are not extensions of the drug court's jurisdiction over the
5 drug court participants.

6 (d) For purposes of standardized measurement of success of drug court
7 programs across the state, ~~the Division of Drug Court Programs in~~
8 ~~consultation with other state agencies and subject to the review of the Drug~~
9 Specialty Court Advisory Committee shall adopt an operational definition of
10 terms such as "recidivism", "retention", "relapses", "restarts", "sanctions
11 imposed", and "incentives given" to be used in any evaluation and report of
12 drug court programs.

13 (e) Each drug court program shall provide to the ~~Division of Drug~~
14 ~~Court Programs~~ Specialty Court Program Advisory Committee all information
15 requested by the Division of Drug Court Programs.

16 (f) The Division of Drug Court Programs, the Department of Community
17 Correction, ~~the Office of Alcohol and Drug Abuse Prevention~~ Division of
18 Behavioral Health Services, and the Arkansas Crime Information Center shall
19 work together to share and make available data to provide a comprehensive
20 data management system for the state's drug court programs.

21 (g)(1) The Administrative Office of the Courts shall+

22 ~~(A) Develop a statewide evaluation model to be reviewed by~~
23 ~~the Drug Court Advisory Committee; and~~ collect monthly data reports submitted
24 by approved drug courts and provide the monthly data reports to the Specialty
25 Court Program Advisory Committee.

26 ~~(B) Conduct ongoing evaluations of the effectiveness and efficiency of~~
27 ~~all drug court programs.~~

28 (h) The Specialty Court Program Advisory Committee shall:

29 (1) Submit a report by July 1 of each year summarizing the data
30 collected and outcomes achieved by all approved drug courts; and

31 (2) Contract with a third-party evaluator every three (3) years
32 to conduct an evaluation on the effectiveness of the drug court program in
33 complying with the key components of § 16-98-302(b).

34 ~~(2) A report of the evaluations of the Administrative Office of~~
35 ~~the Courts shall be submitted to the General Assembly by July 1 of each year.~~

36

1 SECTION 41. Arkansas Code § 16-98-307 is repealed.

2 ~~16-98-307. Drug Court Advisory Committee—Creation.~~

3 ~~(a) There is created a Drug Court Advisory Committee.~~

4 ~~(b) The Drug Court Advisory Committee shall consist of the following~~
5 ~~members:~~

6 ~~(1) The Chief Justice of the Supreme Court or the Chief Justice's~~
7 ~~designee who shall serve as chair;~~

8 ~~(2) The Director of the Administrative Office of the Courts or~~
9 ~~the director's designee;~~

10 ~~(3) A judge to be appointed by the Arkansas Judicial Council;~~

11 ~~(4) The Director of the Department of Community Correction or the~~
12 ~~director's designee;~~

13 ~~(5) The Director of the Department of Human Services or the~~
14 ~~director's designee;~~

15 ~~(6) The Director of the Division of Behavioral Health Services or~~
16 ~~the director's designee;~~

17 ~~(7) A prosecutor appointed by the Prosecutor Coordinator;~~

18 ~~(8) A public defender appointed by the Executive Director of the~~
19 ~~Arkansas Public Defender Commission;~~

20 ~~(9) A member of the Senate appointed by the President Pro Tempore~~
21 ~~of the Senate;~~

22 ~~(10) A member of the House of Representatives appointed by the~~
23 ~~Speaker of the House of Representatives;~~

24 ~~(11) The Arkansas Drug Director or the director's designee;~~

25 ~~(12) The Chair of the Board of Corrections or the chair's~~
26 ~~designee; and~~

27 ~~(13) The Chair of the Parole Board or the chair's designee.~~

28 ~~(c) The chair or the chair's designee shall promptly call the first~~
29 ~~meeting after April 4, 2007.~~

30 ~~(d)(1) The committee shall conduct its meetings at the State Capitol or~~
31 ~~at any place designated by the chair or the chair's designee.~~

32 ~~(2) Meetings shall be held at least one (1) time every three (3)~~
33 ~~months but may occur more often at the call of the chair.~~

34 ~~(e) If any vacancy occurs on the committee, the vacancy shall be filled~~
35 ~~by the same process as the original appointment.~~

36 ~~(f) The committee shall establish rules and procedures for conducting~~

1 ~~its business.~~

2 ~~(g) Members of the committee shall serve without compensation.~~

3 ~~(h) A majority of the members of the committee shall constitute a~~
4 ~~quorum for transacting any business of the committee.~~

5 ~~(i)(1) The committee is established to promote collaboration and~~
6 ~~provide recommendations on issues involving drug courts.~~

7 ~~(2) The committee may provide advice and review on at least the~~
8 ~~following:~~

9 ~~(A) Provisions to identify data to be collected for~~
10 ~~evaluation; and~~

11 ~~(B) Provisions to ensure uniform data collection.~~

12

13 SECTION 42. Arkansas Code Title 19, Chapter 5, Subchapter 11, is
14 amended to add an additional section to read as follows:

15 19-5-1142. Social Innovation Fund.

16 (a) There is created on the books of the Treasurer of State, the
17 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to
18 be known as the "Social Innovation Fund".

19 (b) The fund shall consist of:

20 (1) Any loans, investments, or other amounts received by the
21 Department of Community Correction under the Pay-for-Success Act, § 12-27-201
22 et seq.;

23 (2) Grants made by any person or federal government agency; and

24 (3) Any other funds authorized or provided by law.

25 (c) The fund shall be used by the department to make any payments
26 required under the Pay-for-Success Act, § 12-27-201 et seq.

27

28 SECTION 43. Arkansas Code Title 19, Chapter 5, Subchapter 11, is
29 amended to add an additional section to read as follows:

30 19-5-1143. Accountability Court Fund.

31 (a) There is created on the books of the Treasurer of State, the
32 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to
33 be known as the "Accountability Court Fund".

34 (b) The fund shall consist of:

35 (1) Grants made by any person or federal government agency; and

36 (2) Any other funds authorized or provided by law.

1 (c) The fund shall be used by the Department of Community Correction
2 for adult and juvenile specialty court programs as defined under § 16-10-139,
3 based upon a formula to be developed by the Arkansas Judicial Council,
4 reviewed by the Specialty Courts Advisory Committee, and approved by the
5 Legislative Council.

6
7 SECTION 44. Arkansas Code § 19-6-301(216), concerning special revenue
8 funds, is amended to read as follows:

9 (216) Drug court program user fees, §§ 16-98-304 and ~~19-6-489~~
10 specialty court program user fees, § 16-10-701;

11
12 SECTION 45. Arkansas Code § 19-6-489 is amended to read as follows:

13 19-6-489. ~~MAGNUM Drug~~ Specialty Court Program Fund.

14 ~~(a) A drug court judge may order an offender to pay:~~

15 ~~(1) Court costs;~~

16 ~~(2) Treatment costs;~~

17 ~~(3) Drug testing costs;~~

18 ~~(4) A program user fee not to exceed twenty dollars (\$20.00) per~~
19 ~~month; and~~

20 ~~(5) Necessary supervision fees, including any applicable~~
21 ~~residential treatment fees.~~

22 ~~(b)(1) A drug court judge shall establish a schedule for the payment~~
23 ~~of costs and fees.~~

24 ~~(2) The cost for treatment, drug testing, and supervision shall~~
25 ~~be set by the treatment and supervision providers respectively and made part~~
26 ~~of the order of the drug court judge for payment.~~

27 ~~(3) User fees shall be set by the drug court judge within the~~
28 ~~maximum amount authorized by this subsection and payable directly to the~~
29 ~~court clerk for the benefit and administration of the drug court program.~~

30 ~~(4) Treatment, drug testing, and supervision costs shall be paid~~
31 ~~to the respective providers.~~

32 ~~(5) The court clerk or the designee of the drug court judge~~
33 ~~shall collect all other costs and fees ordered.~~

34 ~~(6)(A) The remaining user fees shall be remitted to the~~
35 ~~Treasurer of State by the court clerk for deposit in the MAGNUM Drug Court~~
36 ~~Fund, which is a special revenue fund created and established on the books of~~

1 ~~the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of~~
2 ~~the State.~~

3 ~~(B) The MAGNUM Drug Court Fund shall consist of user fees~~
4 ~~and any other moneys provided by law.~~

5 ~~(7) Court orders for costs and fees shall remain an obligation~~
6 ~~of the offender with court monitoring until fully paid.~~

7 (a) There is created on the books of the Treasurer of State, the
8 Auditor of State, and the Chief Fiscal Officer of the State a special revenue
9 fund to be known as the "Specialty Court Program Fund".

10 (b) The Specialty Court Program Fund shall consist of the specialty
11 court program user fees under § 16-10-701 and any other moneys provided by
12 law.

13 (c) The fund shall be used exclusively for:

14 (1) Treatment services provided by the Department of Community
15 Correction as defined by and distributed under § 16-98-305(1)(E);

16 (2) Treatment services provided by the Department of Human
17 Services as defined by and distributed under § 16-98-305(2)(C);

18 (3) The cost of the evaluation of specialty court programs by
19 the Specialty Court Advisory Committee as required under § 16-10-139; and

20 (4) Drug and mental health crisis intervention centers."

21
22 SECTION 46. Arkansas Code § 27-16-801, concerning the issuance of a
23 driver's license, is amended to add an additional subsection to read as
24 follows:

25 (i)(1) As used in this subsection, "eligible inmate" means a person
26 who is within one hundred twenty (120) days of release from custody by the
27 Department of Correction or the Department of Community Correction.

28 (2)(A) The office shall issue an identification card to an
29 eligible inmate who has previously been issued an:

30 (i) Arkansas identification card; or

31 (ii) Arkansas driver's license and the driving
32 privileges of the eligible inmate are suspended or revoked.

33 (B) The office shall issue a driver's license to an
34 eligible inmate who has previously been issued an Arkansas driver's license
35 if the driving privileges of the eligible inmate are:

36 (i) Not suspended or revoked; or

1 (ii) Suspended or revoked solely as a result of an
2 outstanding driver's license reinstatement fee imposed under the laws of this
3 state.

4 (3) The Department of Correction and the Department of Community
5 Correction shall identify eligible inmates to apply for a replacement or
6 renewal driver's license or identification card.

7 (4) Any fees for a replacement identification card under § 27-
8 16-805 shall be waived for an eligible inmate.

9 (5) If the office issues a driver's license to an eligible
10 inmate under subdivision (i)(2)(B)(ii) of this section, the office shall
11 waive the reinstatement fee.

12
13 SECTION 47. Arkansas Code § 27-16-1105(a)(3)(A), concerning minimum
14 issuance standards for driver's licenses, is amended to read as follows:

15 (3)(A)(i) The office may establish by rule a written and defined
16 exceptions process for a person who is unable to present all the necessary
17 documents for a driver's license or identification card and who must rely
18 upon alternate documents.

19 (ii) The office shall accept alternate documents only
20 to establish identity or date of birth of the person.

21 (iii)(a) An eligible inmate as defined under § 27-
22 16-801(i)(1)(A) may satisfy the identity document requirement under this
23 section by submitting a sentencing order to the Office of Driver Services
24 before his or her release from incarceration.

25 (b) The exception to the identity document
26 requirement under subdivision (a)(3)(A)(iii)(a) of this section shall not be
27 applicable to a first-time issuance of a driver's license or identification
28 card nor may it be used to waive any documentation requirements for non-
29 United States citizens.

30
31 SECTION 48. DO NOT CODIFY. Effective dates.

32 (a) Sections 11, 12, 13, and 20 of this act are effective on and after
33 September 1, 2015.

34 (b) Sections 46 and 47 of this act are effective on and after January
35 1, 2016.

36

1 SECTION 49. EMERGENCY CLAUSE. It is found and determined by the
2 General Assembly of the State of Arkansas that prison overcrowding is one of
3 the largest problems currently burdening the state both from a public safety
4 and budgetary standpoint; that safe and effective measures are needed to
5 immediately combat this problem; and that this act is immediately necessary
6 because in the interests of public safety and the state budget the Department
7 of Correction, Department of Community Correction, Department of Human
8 Services, and the Parole Board should be allowed to immediately implement
9 these new measures. Therefore, an emergency is declared to exist, and this
10 act being immediately necessary for the preservation of the public peace,
11 health, and safety shall become effective on:

12 (1) The date of its approval by the Governor;

13 (2) If the bill is neither approved nor vetoed by the Governor,
14 the expiration of the period of time during which the Governor may veto the
15 bill; or

16 (3) If the bill is vetoed by the Governor and the veto is
17 overridden, the date the last house overrides the veto.

18
19 /s/J. Hutchinson
20
21

22 **APPROVED: 04/01/2015**
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