

ARKANSAS SENATE
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of Senate Bill No. 720

"AN ACT TO AMEND THE PRISON OVERCROWDING EMERGENCY POWERS ACT."

Amendment No. 1 to Senate Bill No. 720.

Amend Senate Bill No. 720 as originally introduced:

Add Senator Critcher as a cosponsor of the bill

AND

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 12-28-602 is amended to read as follows:
12-28-602. Definitions.

As used in this subchapter, unless the context otherwise requires:

- (1) "Board" means the Board of ~~Correction and Community~~
~~Punishment~~ Corrections;
- (2) "Prison" means a correctional facility operated by the Department of Correction under the supervision and direction of the board;
- (3) "Prison system" means the prison facilities of the Department of Correction; ~~and~~
- (4) "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; ~~and~~
- (5) "County backlog" means those inmates sentenced to the Arkansas Department of Correction that are being housed in the county jails until space is available in the prison.

SECTION 2. Arkansas Code § 12-28-603 is amended to read as follows:
12-28-603. Declaration of emergency.

(a)(1) Whenever the population of the prison system exceeds ninety-eight percent (98%) of the rated capacity for thirty (30) consecutive days, or whenever the number of inmates on the county jail backlog exceeds five hundred (500) inmates, the board may declare a prison overcrowding state of emergency.

(2) In making any emergency request, based on exceeding the ninety-eight percent (98%) capacity, 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.

(3) In making any emergency request based on a county jail backlog exceeding five hundred (500) inmates, the board shall certify the list of persons on the county jail backlog and shall further certify that all authorized actions consistent with applicable state laws and regulations have been exhausted in an attempt to reduce the county jail backlog to five hundred (500) inmates.

(b) The board is hereby authorized to invoke this subchapter separately for those facilities housing either male or female inmate populations, provided all other requirements of this subchapter are met.

SECTION 3. Arkansas Code § 12-28-604 is amended to read as follows:
12-28-604. List of inmates - Early parole or discharge.

(a)(1) When the board declares a prison overcrowding state of emergency due to exceeding ninety-eight percent (98%) of the rated capacity and notifies the Director of the Department of Correction of the emergency as authorized, 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.

(2) The listed inmates shall be those who, if authorized, would have their parole eligibility, transfer eligibility, or minimum release dates moved up to a point where they would immediately be eligible for parole, transfer, or discharge.

~~(b)~~(3) Upon receipt of the list of inmates certified by the director, the board is authorized to move up the projected parole eligibility, transfer eligibility, or minimum release dates of any or all inmates on the list by up to ninety (90) days.

~~(c)~~(4) The board shall certify to the director a list of the names of all prisoners whose projected parole eligibility, transfer eligibility, or minimum release dates are affected pursuant to the provisions of this subchapter.

(b)(1) When the board declares a prison overcrowding state of emergency due to the county jail backlog exceeding five hundred (500) inmates and notifies the Director of the Department of Correction of the emergency as authorized, the director shall certify to the board a list of those inmates who are in Class I or Class II status and are serving a sentence for a nonviolent offense as established by the Board of Corrections and the director shall indicate which inmates he or she recommends.

(2) The listed inmates shall be those who, if authorized, would have their parole eligibility, transfer eligibility, or discharge dates moved up to a point where they would immediately be eligible for parole, transfer, or discharge.

(3) Upon the receipt of the list of inmates certified by the director, the board is authorized to move up the projected parole eligibility, transfer eligibility, or discharge dates of any or all inmates on the list by up to one (1) year.

(4) The board shall certify to the director a list of the names of all prisoners whose projected parole eligibility, transfer eligibility, or discharge dates are affected pursuant to the provisions of this subchapter.

SECTION 4. Arkansas Code § 12-28-605(a) is amended to read as follows:

(a) 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 these successive states of emergency shall not be declared more often than once each ninety (90) days or at any time the county jail backlog exceeds five hundred (500) inmates.

SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that overcrowding in the state prisons must be addressed immediately; that this act does so; and that this act must go into effect as soon as possible in order to help assure that our citizens are protected from the dangerous elements of society. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator J. Bookout
LDH/MHF - 032120030807
MHF444

Secretary