



ADMINISTRATIVE RULE
STATE OF ARKANSAS
BOARD OF CORRECTIONS

Section Number:

ADC 805
ACC 9.0

Page Number:

Board Approval Date:

TBD

Supersedes:

New

Dated:

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Reference:

A.C.A. § 12-27-127

Effective Date:

TBD

SUBJECT:

Administrative Transfer

I. AUTHORITY:

The authority to promulgate this rule is vested in Act 423 of 2017, Regular Session, and Act 55 of 2021, Regular Session [A.C.A. § 12-27-127].

II. PURPOSE:

To establish criteria for the administrative transfer of individuals from the Division of Correction to a Community Correction Center operated by the Division of Community Correction.

III. APPLICABILITY:

Employees of the Divisions of Correction and Community Correction.

IV. DEFINITIONS:

- A. Community Correction Center: a minimum or medium security, alcohol and drug treatment facility operated by the Division of Community Correction.
- B. eOMIS: the electronic Offender Management Information System, or its successor.
- C. Inmate: a person sentenced to a term of incarceration in the Division of Correction.
- D. Target Offense: an offense that falls into the "Target Group" as defined by A.C.A. § 16-93-1202 (10).

V. POLICY:

It shall be the policy of the Board of Corrections to transfer eligible Inmates from the Division of Correction (ADC) to a Community Correction Center (CCC) operated by the Division of Community Correction (ACC).

VI. PROCEDURES:**A. Authorization for Administrative Transfer.**

Pursuant to A.C.A. § 12-27-127, the Division of Correction is authorized to administratively transfer a statutorily eligible Inmate to a Community Correction Center if the Inmate is eligible for placement, unless the court indicates on the Sentencing Order that the Inmate is not authorized for administrative transfer.

B. Eligibility for Administrative Transfer.

1. An Inmate is eligible for administrative transfer to a CCC if:
 - a. The Inmate is sentenced to a term within the statutory parameters;
 - b. The Inmate's current convictions are comprised of Target Offenses;
 - c. The Inmate does not have a history of violent or sexual offenses;
 - d. The Inmate does not have a disciplinary history that disqualifies him or her from placement in a CCC; and
 - e. The Sentencing Order does not prohibit administrative transfer.
2. ACC shall maintain a list of criminal offenses and designate each as either: (1) a Target Offense, (2) not a Target Offense, or (3) a Potential Target Offense.
3. However, the ACC Director retains discretion over admittance of an Inmate into a Community Corrections Center and may exclude an Inmate who is otherwise eligible for reasons including, but not limited to:
 - a. facts of the current case,
 - b. disciplinary status while incarcerated, or
 - c. behavior while on a current or previous term of supervision.

C. Screening Procedures.

1. All Sentencing Orders assigning the defendant to the ADC will be reviewed for CCC eligibility by ADC Central Records.
2. If the Sentencing Order does not authorize administrative transfer, the Inmate will not be administratively transferred. The Inmate will be designated as not authorized in eOMIS and the ADC intake process will begin.
3. If the Sentencing Order does authorize administrative transfer, ADC Central Records will make a preliminary eligibility determination based on the following:
 - a. First, if the total time to serve on all offenses is outside the statutory guidelines for programming and a judicial transfer sentence, the Inmate is determined to be ineligible for administrative transfer to a CCC.
 - b. Second, if any of the offenses on the current Sentencing Order are designated as not a target offense by the Division of Community Correction, the Inmate is determined to be ineligible for administrative transfer to a CCC.
4. For Inmates determined to be ineligible during the preliminary eligibility determination, ADC Central Records will notate the reason that the Inmate is ineligible for administrative transfer in eOMIS and begin the ADC intake process.

5. ADC Central Records will forward Sentencing Orders for Inmates who are determined to be preliminarily eligible for administrative transfer to ACC Central Records for eligibility screening.
6. ACC Central Records will screen the Inmate and make a final determination on eligibility for placement in a Community Corrections Center.
 - a. The screening conducted by ACC Central Records will cover, at a minimum:
 - i. Inmate's current offenses
 - ii. Inmate's criminal history
 - iii. Inmate's history of discipline while incarcerated
 - iv. Inmate's violation history while under supervision
 - b. After conducting the screening, ACC Central Records will designate the Inmate as either (1) Eligible for Placement or (2) Ineligible for Placement in eOMIS.
 - c. If the Inmate is determined to be ineligible for placement, ACC Central Records will notate why the Inmate is ineligible in eOMIS and remit the record back to ADC Central Records.
 - d. If the Inmate is determined to be eligible for placement, ACC Central Records will determine if the Inmate is appropriate for placement in a CCC.
7. When analyzing whether an Inmate is suitable for placement in a CCC, ACC Central Records will consider the criminogenic, mental health, and substance abuse treatment needs of the Inmate.
 - a. If the Inmate is determined to be not suitable for placement, ACC Central Records will notate why the Inmate is not suitable for placement in eOMIS and remit the record back to ADC Central Records.
 - b. If the Inmate is determined to be suitable for placement, ACC Central Records will begin the ACC intake process for the Inmate.

VII. IMPLEMENTATION:

- A. The Secretary or appropriate Division Director may issue directives to implement the guidance contained within this Rule.
- B. Implementation of this rule may be delayed until any necessary directives are issued and any required programming changes to eOMIS have been completed.

VIII. A.C.A. REFERENCES:

- A.C.A. § 12-27-127
A.C.A. § 16-93-1202

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1185

5 By: Representative Dalby
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE JUDICIAL OR ADMINISTRATIVE
9 TRANSFER OF AN INMATE TO THE DIVISION OF COMMUNITY
10 CORRECTION; CONCERNING TRANSFER TO THE DIVISION OF
11 COMMUNITY CORRECTION NOTED ON A COURT'S SENTENCING
12 ORDER; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 CONCERNING THE JUDICIAL OR
16 ADMINISTRATIVE TRANSFER OF AN INMATE TO
17 THE DIVISION OF COMMUNITY CORRECTION.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 12-27-113(a) and (b), concerning
24 commitments to the Division of Correction and judicial transfers to the
25 Division of Community Correction, are amended to read as follows:

26 (a)(1) All commitments to the Division of Correction shall be to the
27 Division of Correction and not to a particular institution.

28 (2) Commitments may provide for judicial or administrative
29 transfer to the Division of Community Correction.

30 (b)(1) The Director of the Division of Correction, in accordance with
31 the rules and procedures promulgated by the Board of Corrections, shall
32 transfer an inmate to the Division of Community Correction, pursuant to a
33 judicial transfer, determine the administrative transfer of an inmate to the
34 Division of Community Correction, or assign a newly committed inmate to an
35 appropriate facility of the Division of Correction.

36 (2) The director may transfer an inmate from one (1) facility to



1 another consistent with the commitment and in accordance with treatment,
2 training, and security needs.

3 (3) Inmates may be transferred between the Division of
4 Correction and the Division of Community Correction within the constraints of
5 law applicable to judicial or administrative transfer, subject to the
6 policies, ~~rules, and regulations~~ and rules established by the Board of
7 Corrections, and conditions set by the Parole Board.

8 (4) The Division of Correction shall retain legal custody of all
9 inmates transferred to community correction unless altered by court order.

10
11 SECTION 2. Arkansas Code § 12-27-113(e)(3), concerning inmates
12 judicially transferred to the Division of Community Correction, is amended to
13 read as follows:

14 (3) For those inmates committed to the Division of Correction
15 and judicially or administratively transferred to the Division of Community
16 Correction, the preparation of a record described in subdivision (e)(1) of
17 this section may be delegated to the Division of Community Correction
18 pursuant to policies applicable to records transmission adopted by the Board
19 of Corrections.

20
21 SECTION 3. Arkansas Code § 12-27-127(a), concerning the transfer of a
22 person to the Division of Community Correction, is amended to read as
23 follows:

24 (a)(1) A commitment shall be treated as a commitment to the Division
25 of Correction and subject to regular transfer eligibility ~~unless,~~

26 ~~(1) The commitment specifies that the~~

27 (2) However, an inmate is to may be judicially or
28 administratively transferred to the Division of Community Correction, ~~or by~~
29 the Division of Correction

30 ~~(2) If the court indicates on the commitment that the Division~~
31 ~~of Correction shall administratively determine the transfer of an inmate, the~~
32 ~~Division of Correction may administratively transfer a statutorily eligible~~
33 ~~inmate to the Division of Community Correction in accordance with rules~~
34 ~~promulgated by the Board of Corrections unless the court indicates on the~~
35 ~~sentencing order that the Division of Correction shall not administratively~~
36 ~~transfer a statutorily eligible inmate to the Division of Community~~

1 Correction in accordance with the rules promulgated by the Board of
2 Corrections.

3
4 SECTION 4. Arkansas Code § 16-93-310(c)(2)(A), concerning the
5 commitment to the Division of Correction of a person who has had his or her
6 probation revoked, is amended to read as follows:

7 (2)(A) The court shall commit the eligible offender to the
8 custody of the Division of Correction under this subchapter for judicial or
9 administrative transfer to the Division of Community Correction subject to
10 the following:

11 (i) That the sentence imposed provides that the
12 offender shall serve no more than three (3) years of confinement, with credit
13 for meritorious good time, with initial placement in a Division of Community
14 Correction facility; and

15 (ii) That the initial placement in the Division of
16 Community Correction is conditioned upon the offender's continuing
17 eligibility for Division of Community Correction placement and the offender's
18 compliance with all applicable rules established by the Board of Corrections
19 for community correction programs.

20
21 SECTION 5. Arkansas Code § 16-93-614(b)(2), concerning the parole
22 eligibility of a person who committed certain felony offenses after January
23 1, 1994, is amended to read as follows:

24 (2) A person who committed a target offense under ~~the Community~~
25 ~~Punishment Act~~, § 16-93-1201 et seq., before January 1, 1994, and who has not
26 been sentenced to a term of incarceration may waive the right to be released
27 under the parole eligibility law in effect at the time the crime was
28 committed and shall become eligible for judicial or administrative transfer
29 pursuant to the transfer provisions provided in subdivision (c)(2) of this
30 section.

31
32 SECTION 6. Arkansas Code § 16-93-614(c)(2)(A), concerning the parole
33 eligibility of a person who committed certain felony offenses after January
34 1, 1994, is amended to read as follows:

35 (2)(A)(i)(a) An offender convicted of a target offense under ~~the~~
36 ~~Community Correction Act~~, § 16-93-1201 et seq., may be committed to the

1 Division of Correction and judicially or administratively transferred to the
2 Division of Community Correction by ~~specific~~ provision in the commitment that
3 the trial court order or authorize such a transfer.

4 (b) No other offender is eligible for transfer
5 to a Division of Community Correction facility.

6 (ii) A copy of the commitment shall be forwarded
7 immediately to the Division of Correction and to the Division of Community
8 Correction.

9 (iii) In the event that an offender is sentenced to
10 the Division of Correction without judicial or administrative transfer on one
11 (1) sentence and concurrently sentenced to the Division of Correction with
12 judicial or administrative transfer on another sentence, the offender shall
13 remain in the Division of Correction, and the sentence with judicial or
14 administrative transfer may be discharged in the same manner as that of an
15 offender transferred back to the Division of Correction.

16
17 SECTION 7. Arkansas Code § 16-93-614(c)(2)(D), concerning the parole
18 eligibility of a person who committed certain felony offenses after January
19 1, 1994, is amended to read as follows:

20 (D) The offender shall not be transported to the Division
21 of Correction on the initial placement in a Division of Community Correction
22 facility pursuant to a judicial or administrative transfer.

23
24 SECTION 8. Arkansas Code § 16-93-614(c)(2)(F), concerning the parole
25 eligibility of a person who committed certain felony offenses after July 31,
26 2007, is amended to read as follows:

27 (F) An offender who is sentenced after July 31, 2007, and
28 who is transferred back to the Division of Correction for administrative
29 reasons is eligible for transfer to Division of Community Correction
30 supervision in the same manner as an offender who is sentenced to the
31 Division of Correction without a judicial or administrative transfer to the
32 Division of Community Correction; and

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34
35 **APPROVED: 2/2/21**