

## Subchapter 9 — Joint Performance Review Committee

10-3-901. Creation — Members — Meetings — Expenses.

10-3-902. Duties.

10-3-903. Employment of personnel.

**Effective Dates.** Acts 1983, No. 798, § 3: Mar. 24, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the membership of the Joint Performance Review Committee should be increased and such new members should assume duties upon adjournment of the General Assembly, and that unless this emergency clause is adopted the effective date of this act will be ninety (90) days subsequent to adjournment. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 517, § 10: Mar. 16, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the laws concerning certain committees of the House of Representatives and the General Assembly are in need of clarification and revision for the efficient operation of the General Assembly and that this act is immediately necessary to assist the Seventy-Ninth General Assembly in carrying out its duties. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. 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 the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 24, § 4: Jan. 29, 2003. Emergency clause provided: "It is found and determined by the General Assembly that the membership of the interim committees addressed by this act should be modified to reflect a better representation of the House and Senate; that this act accomplishes that purpose; that the committees identified by this act may commence meeting immediately upon adjournment of this session, and that unless this emergency clause is adopted, the modification of the membership will not occur for three months after the date of adjournment resulting in either obsolete membership for the first three months of the interim or a three-month delay in the committees commencing their work. 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."

Acts 2003, No. 380, § 3: Mar. 17, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Senate Rules adopted for the Eighty-fourth General Assembly provide for ten (10) Senate members on the Joint Committee on Energy and ten (10) Senate members on the Joint Performance Review Committee; that the statutes relating to those committees indicate seven (7) Senate members on each committee; that the statutes further provide that the Senate members are selected according to Senate Rules; that until the statutes are amended, there will be a conflict between the Senate Rules and the statutes; and that it is imperative that the Senate Rules and the statutes not be in conflict. 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."

**10-3-901. Creation — Members — Meetings — Expenses.**

(a)(1) There is hereby created the "Joint Performance Review Committee", which shall consist of twenty (20) members of the House of Representatives to be selected as prescribed by the Rules of the House of Representatives and ten (10) members of the Senate to be appointed pursuant to the Rules of the Senate.

(2)(A) There shall be a Senate cochair and a House cochair and a Senate co-vice chair and a House co-vice chair of the committee.

(B)(i) The House cochair and House co-vice chair shall be selected according to the Rules of the House of Representatives.

(ii) The Senate cochair and Senate co-vice chair shall be selected according to the Rules of the Senate.

(b)(1) The House members of the committee and the Senate members of the committee may meet separately as separate committees of the House and Senate or may meet jointly as a joint committee at such times as to which the House and Senate membership agree to the holding of joint meetings.

(2) The committee may meet at such places within the state as it deems appropriate.

(c) At all joint meetings of the committee, a quorum shall consist of a majority of the Senate members of the committee and a majority of the House members of the committee.

(d) All votes taken at each joint meeting of the committee shall be by separate Senate vote and separate House vote, and no motion shall pass unless it receives a favorable vote of the majority of the members of the House committee and a favorable vote of the majority of the members of the Senate committee.

(e) Members of the committee shall be entitled to per diem and mileage at the rate provided by law to be paid from funds appropriated for payment of per diem and mileage for attendance at

meetings of interim committees of the House and Senate.

**(f)(1)(A)** When meeting as a joint committee, the committee may subpoena persons, documents, and records upon approval of a majority of the House membership of the committee and a majority of the Senate membership of the committee.

**(B)** However, no action of the joint committee regarding the exercise of the subpoena power shall be taken except upon notice of at least one (1) week to all members of the committee or upon a two-thirds (2/3) vote of the House membership of the committee and a two-thirds (2/3) vote of the Senate membership of the committee.

**(2)(A)** If the House members meet as a separate committee under subsection (b) of this section, the House committee may subpoena persons, documents, and records upon approval of a majority of the membership of the House committee.

**(B)** However, no action of the House committee regarding the exercise of the subpoena power shall be taken except upon notice of at least one (1) week to all members of the House committee or upon a two-thirds (2/3) vote of the membership of the House committee.

**(3)(A)** If the Senate members meet as a separate committee under subsection (b) of this section, the Senate committee may subpoena persons, documents, and records upon approval of a majority of the membership of the Senate committee.

**(B)** However, no action of the Senate committee regarding the exercise of the subpoena power shall be taken except upon notice of at least one (1) week to all members of the Senate committee or upon a two-thirds (2/3) vote of the membership of the Senate committee.

**History.** Acts 1977, No. 392, §§ 1, 3; 1983, No. 798, § 1; A.S.A. 1947, §§ 4-1013, 4-1015, 4-1017; Acts 1992 (1st Ex. Sess.), No. 31, § 1; 1993, No. 517, § 3; 2001, No. 627, § 4; 2003, No. 24, § 3; 2003, No. 380, § 2; 2003, No. 1218, § 1.

#### **10-3-902. Duties.**

The Joint Performance Review Committee shall have the authority and responsibility to:

**(1)** Make random and periodic performance review of specific governmental programs and agencies;

**(2)** Conduct investigations into such specific problem areas of the administration of state government as may be brought to the attention of the Joint Performance Review Committee;

**(3)** Refer specific problems regarding the operation of state government to appropriate interim committees of the General Assembly for continuing study;

**(4)** Conduct hearings on citizen complaints and views regarding the operation of state

government and serve as a forum for citizens to air their complaints and suggestions regarding the operation of state government;

(5) Review the expenditures of the various agencies, departments, and programs of state government to assure that they are being administered in accordance with legislative intent and are being administered in such manner as to provide the taxpayers with the greatest service at the lowest reasonable cost; and

(6) Make such reports and recommendations to the Governor, the General Assembly, and the Legislative Council as the Joint Performance Review Committee deems necessary or appropriate to promote more effective and efficient operation of state government.

**History.** Acts 1977, No. 392, § 2; A.S.A. 1947, § 4-1014; Acts 1997, No. 1354, § 21.

~~10-3-903. Employment of personnel.~~ Repealed 2013 Session Act 1465  
Sec. 2

~~The Joint Performance Review Committee is authorized to employ such personnel as necessary to carry out the provisions of this subchapter.~~

**History.** Acts 1977, No. 392, § 4; A.S.A. 1947, § 4-1016.

## PAROLE OVERVIEW

### INTRODUCTION

When you ask a constituent what he or she believes “parole” is and what it does, the answer usually comes back... “It is when someone serves enough of their prison sentence to get out of prison but could be sent back for the rest of their sentence if they screw up again...”

That is a simple and obvious way to think about it. It is how I used to think parole worked. It might be how some of you think it works, but it is absolutely not the case.

### CONVICTION

Convicted felons enter the criminal justice system after being found guilty by a judge or jury or entering into a negotiated plea agreement with the State.

### SENTENCE

Other than life and life without parole sentences and death sentences, defendants sent to ADC become parole eligible after they serve a certain part of their sentence:

1/6, 1/4, or 7/10 (70% crimes) These rates of good time accrual line up with the seriousness level of the offense as established by the Sentencing Commission.

There are other laws that impact inmates’ parole eligibility such as the Emergency Powers Act and some newer provisions from Act 570.

But, when thinking about ADC, DCC, and criminal justice policy, you can assume that 5/6, 3/4, and 3/10 of the sentence you hear about on the front end is not a prison sentence but is “served out” with the defendant on parole.

### PAROLE

A felon is subject to certain types of supervision and oversight and conditions when on parole. Provisions of Act 570 allow some parolees to further reduce their sentence and gain more “good time” while on parole.

DCC has the power to sanction a person on parole if they violate the conditions of their parole. DCC has the power to seek revocation of parole and send the offender back to ADC. The burden of proof in such a proceeding is by a preponderance of the evidence, not guilt beyond a reasonable doubt.

If a person is revoked back to ADC they do not serve the rest of their original sentence, or even a significant part of that sentence, in most cases. Generally, they are returned to ADC for a period of six months or one year.

## **PHILOSOPHY/POLICY**

The following is my opinion, but I think it is shared by my fellow prosecutors here today:

The system exerts pressure on ADC to save space and pressure on DCC to be slow to revoke their clients to ADC. At some point, I would think new felony arrests is a good place to start, DCC will need to stop treating violators like clients and treat them like hard-headed recidivists.

Laws and policies that quicken revocation of those who are on parole and commit more crimes will mean more people in ADC and the legislature should note that when pursuing criminal justice policies.

## Summary of Proposed Order

(1) Arkansas Code § 12-27-125(b)(20) provides that the Department of Community Correction (hereafter DCC) shall maintain a full and complete record of each offender under its supervision and that it is unlawful to permit inspection of or disclose information contained in a record or to copy or issue a copy of any part of a record except as authorized by administrative rule or court order.

(2) DCC alleges that § 12-27-125(b)(20) prevents their compliance with legislative requests for confidential information requested in committee letters to DCC dated June 20, 2013, and July 2, 2013 without a court order (pages 1 and 5-6 in committee materials).

(3) Upon agreement of a majority of the Joint Performance Committee (hereafter JPR), JPR will enter into a court order with DCC to provide for the release of the confidential information subject to the following terms:

(A) DCC shall provide all information requested in the letters of June 20, 2013 and July 2, 2013.

(B) Bureau of Legislative Research (hereafter BLR) staff shall receive and retain the confidential materials from DCC on behalf of the committee and shall retain them for 120 days from the date of the order. At the end of the 120 day period, BLR staff shall either return the confidential materials to DCC or destroy them. If the materials are destroyed, JPR will provide to DCC an affidavit to that effect.

(C) The documents provided to the committee shall only be viewed by:

- (i) Members of the JPR committee;
- (ii) BLR staff;
- (iii) DCC staff; and
- (iv) Attorneys representing JPR and DCC.

(D) The documents shall remain confidential while in the possession of the committee and shall not be provided to the public or the media.

(E) The JPR committee may conduct public meetings in which copies of the confidential materials are distributed to committee members. BLR may copy the confidential materials for the purpose of distribution at the public meetings, but the materials shall be available only to those persons authorized to view them under the order. JPR members and DCC staff may engage in discussions in a public meeting regarding the substance of the confidential materials. As part of these discussions, JPR members, DCC staff, and BLR staff may read aloud from the confidential materials. At the conclusion of a public meeting, the confidential materials shall be collected and retained by BLR staff. Materials distributed or discussed at a public meeting shall remain confidential and shall not be provided to the public or media.