

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

204

By: Senator Malone

For An Act To Be Entitled

"AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE OF 1987 ANNOTATED TO PROVIDE FOR APPOINTMENT OF MEMBERS OF CRIMINAL DETENTION FACILITIES REVIEW COMMITTEES BY THE GOVERNOR; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code Annotated 12-26-105(a) is amended to read as follows:

"(a) There is created within each judicial district a criminal detention facility review committee, to be composed of at least five (5) members who are residents within the judicial district and who hold no public office. Each county within a judicial district shall have at least one (1) representative on the committee. There shall be at least one (1) member on each committee who is a youth services worker or juvenile advocate. If the number of counties in a judicial district exceeds five (5), the membership of the committee shall be increased to the nearest odd number that provides for representation from each county."

SECTION 2. Arkansas Code Annotated 12-26-106 is amended to read as follows:

"12-26-106. The committees shall have the authority and responsibility:

(1) To provide consultation and technical assistance to county and local government officials with respect to criminal detention facilities and juvenile detention facilities;

(2) To visit and inspect the criminal detention facilities and juvenile detention facilities for compliance with the standards as established under §12-26-103;

(3) To advise government officials and other appropriate persons of

deficiencies in the facilities and make recommendations for improvements;

(4) To submit written reports of the inspections to appropriate agencies and persons as set out in §12-26-107;

(5) To review and comment on plans for the construction and major modification or renovation of the criminal detention facilities and juvenile detention facilities; and

(6) To perform such other duties as may be necessary to carry out the policy of the state regarding criminal detention facilities and juvenile detention facilities."

SECTION 3. Arkansas Code Annotated 12-26-103 is amended to read as follows:

"12-26-103. (a) There is established the office of Criminal Detention Facilities Review Coordinator, which shall consist of a Criminal Detention Facilities Review Coordinator who shall be appointed by and serve at the pleasure of the Governor, a Juvenile Justice Specialist, and an Administrative Assistant.

(b) The Coordinator's office shall be responsible for promulgating minimum standards for the construction, maintenance, and operation of local, county, regional, or state criminal detention facilities and juvenile detention facilities in accordance with the Administrative Procedure Act, §25-15-201 et seq; and with §12-26-104.

(c) The coordinator shall perform all duties necessary to assure uniformity in the interpretation and administration of the minimum standards by the several committees."

SECTION 4. Arkansas Code Annotated 12-26-107 is amended to read as follows:

"12-26-107. (a) Except as otherwise provided in this act, each committee shall visit and inspect each criminal detention facility and each juvenile detention facility, if any, in its judicial district at least annually for the purpose of determining the conditions of confinement, the treatment of prisoners, and whether the facilities comply with the minimum standards established pursuant to this act.

(b) (1) A written report of each inspection shall be made within thirty (30) days following such inspection to the chief circuit judge for the

judicial district within which the facility is located and to the county judge or the governing body of the political subdivision whose facility is the subject of the report.

(2) The report shall specify those respects in which the facility does not comply with the required minimum standards."

SECTION 5. Arkansas Code Annotated 12-26-108 is amended to read as follows:

"12-26-108. (a) (1) If an inspection under this act discloses that the criminal detention facility or juvenile detention facility does not meet the minimum standards established by the coordinator, the committee shall send notice, together with the inspection report, to the governing body responsible for the criminal detention facility or juvenile detention facility and to the duly constituted grand jury for the county in which the criminal detention facility or juvenile detention facility is located.

(2) A copy of the notice required by this act shall also be sent to the chief circuit judge of the judicial district in which the facility is located.

(b) The appropriate governing body or the grand jury, or both, shall promptly meet to consider the inspection report, and the committee chairman shall appear to advise and consult concerning appropriate corrective action.

(c) The governing body or the grand jury, or both, shall then initiate appropriate corrective action within six (6) months of the receipt of the inspection report or may voluntarily close the detention facility or the objectionable portion thereof.

(d) (1) If the governing body or the grand jury fails to initiate corrective action within six (6) months after receipt of such inspection report, or fails to correct the disclosed conditions, or fails to close the detention facility or the objectionable portion thereof, the committee is authorized to petition a circuit court within the judicial district in which the facility is located to close the facility.

(2) The petition shall include the inspection report regarding the facility.

(3) The local governing body shall then have thirty (30) days to respond to the petition and shall serve a copy of the response on the committee chairman by certified mail, return receipt requested.

(e) Thereafter, a hearing shall be held on the petition before the circuit court, and an order rendered by such court which:

(1) Dismisses the petition of the committee;

(2) Directs that corrective action be initiated in some form by the local governing body or by the grand jury with respect to the criminal detention facility in question; or

(3) Directs that the criminal detention facility be closed.

(f) An appeal from the decision of the circuit court may be taken to the Supreme Court of Arkansas."

SECTION 6. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 7. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 8. It is hereby found and determined by the General Assembly that it is immediately necessary to provide for an adequate system of monitoring jails, juvenile detention facilities, and criminal detention facilities to prohibit juveniles from being treated as criminals, to place such juveniles under proper care, to assure adequate standards for juvenile detention facilities, and to prohibit juveniles from associating with hardened adult criminals; and that the immediate passage of this act is necessary for the protection of juveniles. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation and protection of the public peace, health and safety shall be in full force and effect from and after its passage and approval.