

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Bookout

A Bill

SENATE BILL 216

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE 12-28-602, 12-28-603, 12-28-604, 12-28-605, AND 12-28-606, THE PRISON OVERCROWDING EMERGENCY POWERS ACT; AND FOR OTHER PURPOSES."

Subtitle

"AMEND THE PRISON OVERCROWDING EMERGENCY POWERS ACT."

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

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;

(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."

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

(a) Whenever the population of the prison system exceeds ninety-eight percent (98%) of rated capacity for thirty (30) consecutive days, the Board may declare a prison overcrowding state of emergency. In making any emergency request, the Board shall certify the rated capacity and current population of

1 the prison system and shall further certify that all authorized actions
2 consistent with applicable state laws and regulations have been exhausted in
3 an attempt to reduce the prison population to ninety-eight percent (98%) of
4 the rated capacity.

5 (b) The Board is hereby authorized to invoke the Prison Overcrowding
6 Emergency Powers Act, §§ 12-28-601 - 12-28-606, separately for those
7 facilities housing either male or female inmate populations, provided all
8 other requirements of that act are met."

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10 SECTION 3. Arkansas Code 12-28-604 is amended to read as follows:

11 "12-28-604. List of inmates - Early parole or discharge.

12 When the Board declares a prison overcrowding state of emergency and
13 notifies the Director of the Department of Correction of the emergency as
14 authorized, the Director shall certify to the Board a list of those inmates
15 who are Class I and Class II, and the Director shall indicate which inmates
16 he recommends. The listed inmates shall be those who, if authorized, would
17 have their parole eligibility, or transfer eligibility, or minimum release
18 date moved up to a point where they would immediately be eligible for parole,
19 transfer or discharge. Upon receipt of the list of inmates certified by the
20 Director, the Board is authorized to move up the projected parole eligibility
21 or transfer eligibility or minimum release dates of any or all inmates on the
22 list by up to ninety (90) days. The Board shall certify to the Director a
23 list of names of all prisoners whose projected parole eligibility or transfer
24 eligibility or minimum release dates are affected pursuant to the provisions
25 of this subchapter."

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27 SECTION 4. Arkansas Code 12-28-605 is amended to read as follows:

28 "12-28-605. Successive states of emergency.

29 The Board may declare succeeding prison overcrowding states of
30 emergency at any time when the prison population exceeds ninety-eight percent
31 (98%) of the rated capacity of the system but these successive states of
32 emergency shall not be declared more often than once each ninety (90) days.
33 Any second or subsequent state of emergency declared pursuant to the
34 provisions of this subchapter shall have the same effect as the first
35 declaration of emergency with respect to inmates in the system on the date of

1 the declaration of each successive state of emergency."

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3 SECTION 5. Arkansas Code 12-28-606 is amended to read as follows:

4 "12-28-606. Declaration of end of emergency.

5 At any time during a declared prison overcrowding state of emergency,
6 the Board may declare the prison overcrowding state of emergency to be
7 ended."

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

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13 SECTION 7. If any provision of this act or the application thereof to
14 any person or circumstance is held invalid, such invalidity shall not affect
15 other provisions or applications of the act which can be given effect without
16 the invalid provision or application, and to this end the provisions of this
17 act are declared to be severable.

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19 SECTION 8. All laws and parts of laws in conflict with this act are
20 hereby repealed.

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