

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

# A Bill

HOUSE BILL 2310

5 By: Representative Minton  
6  
7

## For An Act To Be Entitled

9 AN ACT TO REPEAL VARIOUS SECTIONS OF THE ARKANSAS  
10 CODE TO ABOLISH THE CRIMINAL DETENTION FACILITIES  
11 BOARD; AND FOR OTHER PURPOSES.  
12

## Subtitle

13 AN ACT TO REPEAL VARIOUS SECTIONS OF THE  
14 ARKANSAS CODE TO ABOLISH THE CRIMINAL  
15 DETENTION FACILITIES BOARD.  
16  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. Arkansas Code 12-26-101 through 12-26-108 is repealed

22 ~~12-26-101. Policy—Purpose of chapter.~~

23 ~~It is declared to be the policy of the State of Arkansas that all~~  
24 ~~criminal detention facilities within the counties of the state shall conform~~  
25 ~~to certain minimum standards of construction, maintenance, and operation. It~~  
26 ~~is the purpose of this chapter to implement this policy by establishing a~~  
27 ~~criminal detention facilities review committee within each of the judicial~~  
28 ~~districts of the state with the authority and responsibility to administer~~  
29 ~~the provisions of this chapter and other laws heretofore or hereafter enacted~~  
30 ~~relating to standards for criminal detention facilities.~~

31  
32 ~~12-26-102. Definitions.~~

33 ~~As used in this chapter, unless the context otherwise requires:~~

34 ~~(1) "Board" means the Arkansas Criminal Detention Facilities~~  
35 ~~Board;~~

36 ~~(2) "Committee" means the criminal detention facilities review~~

1 ~~committee established in each of the judicial districts of this state; and~~

2 ~~(3) "Criminal detention facility" means any institution operated~~  
3 ~~by a political jurisdiction or a combination of jurisdictions for the care,~~  
4 ~~keeping, or rehabilitative needs of adult criminal offenders, including~~  
5 ~~regional jails, county jails, municipal jails, and temporary holding units.~~

6  
7 ~~12-26-103. Review coordinator.~~

8 ~~(a) There is established the office of Criminal Detention Facilities~~  
9 ~~Review Coordinator which shall consist of a criminal detention facilities~~  
10 ~~review coordinator, who shall be appointed by and serve at the pleasure of~~  
11 ~~the Governor, a juvenile justice specialist, and an administrative assistant.~~

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

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

20  
21 ~~12-26-104. Criminal Detention Facilities Review Commission.~~

22 ~~(a) There is established a Criminal Detention Facilities Review~~  
23 ~~Commission, the members of which shall be appointed by the Governor.~~

24 ~~(b) The commission shall be responsible for developing guidelines for~~  
25 ~~the operation of local criminal detention facilities as defined in~~  
26 ~~subdivision (g)(4) of this section.~~

27 ~~(c) The commission membership shall consist of seventeen (17) persons~~  
28 ~~drawn from the following disciplines, professions, groups, and associations~~  
29 ~~in numbers as shown:~~

30 ~~(1) Three (3) sheriffs;~~

31 ~~(2) Three (3) chiefs of police;~~

32 ~~(3) Two (2) attorneys;~~

33 ~~(4) Two (2) nutritionists;~~

34 ~~(5) Two (2) architects;~~

35 ~~(6) Three (3) state citizens who are not related to the field of~~  
36 ~~criminal justice, preferably from the education field;~~

1                   ~~(7) One (1) medical doctor; and~~

2                   ~~(8) One (1) dentist.~~

3                   ~~(d) Commission members may receive expense reimbursement in accordance~~  
 4 ~~with § 25-16-901 et seq.~~

5                   ~~(e) The commission will dissolve itself at the conclusion of the~~  
 6 ~~business meeting at which it approves the final printed copy of the minimum~~  
 7 ~~guidelines.~~

8                   ~~(f) The coordinator of the commission shall make himself available to~~  
 9 ~~the commission in the capacity of an advisor.~~

10                   ~~(g) As used in this section:~~

11                   ~~(1) "Coordinator" is the person appointed by the Governor under~~  
 12 ~~the provisions of § 12-26-103;~~

13                   ~~(2) "Criminal Detention Facilities Review Commission" means the~~  
 14 ~~commission established in subsection (a) of this section;~~

15                   ~~(3) "Criminal detention facility" means any institution in which~~  
 16 ~~prisoners may be held for any length of time whatsoever, including county-~~  
 17 ~~city jails, regional jails, or any type of temporary holding facility;~~

18                   ~~(4) "Criminal detention review committee" or "committee" means a~~  
 19 ~~committee which was appointed by the Governor under the provisions of this~~  
 20 ~~chapter;~~

21                   ~~(5) "Guidelines for operating local criminal detention~~  
 22 ~~facilities" means those guidelines which will result from the work of the~~  
 23 ~~commission;~~

24                   ~~(6) "Intermediate/long term facility" means a criminal detention~~  
 25 ~~institution in which prisoners may be held from time of intake through a one-~~  
 26 ~~year period;~~

27                   ~~(7) "Short term facility" means any institution operated by a~~  
 28 ~~local unit of government in which persons may be incarcerated from time of~~  
 29 ~~intake up to sixty (60) days;~~

30                   ~~(8) "Twenty four (24) hour or overnight facility" means any~~  
 31 ~~institution operated by a local government in which persons may be~~  
 32 ~~incarcerated from time of intake up to twenty four (24) hours.~~

33

34                   ~~12-26-105. Judicial district review committees created—Members.~~

35                   ~~(a) There is created within each judicial district a criminal~~  
 36 ~~detention facility review committee, to be composed of at least five (5)~~

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

8 ~~(b)(1) The membership of each committee shall be appointed by the~~  
9 ~~Governor. The members shall be appointed for terms of four (4) years.~~

10 ~~(2) Members of the committees are permitted to succeed~~  
11 ~~themselves.~~

12 ~~(3) In the event a vacancy occurs on a committee, the remaining~~  
13 ~~members of the committee shall notify, in writing, the appointing body of the~~  
14 ~~vacancy, and the appointing body shall appoint another member to serve the~~  
15 ~~remainder of the vacated term.~~

16 ~~(c) Each year the members shall elect one (1) member to serve as~~  
17 ~~chairman.~~

18 ~~(d) The committees shall function as state agencies. Members shall~~  
19 ~~enjoy all of the rights and privileges of state officers while performing~~  
20 ~~their duties as assigned by the chapter. This protection extends to any case~~  
21 ~~that may arise as a result of those duties with no time limitation except as~~  
22 ~~may already exist by other statutes.~~

23 ~~(e) The members shall receive no compensation or remuneration,~~  
24 ~~provided that the state shall reimburse the members for clerical and typing~~  
25 ~~expenses approved by the Criminal Detention Facilities Review Coordinator.~~  
26 ~~Members may receive expense reimbursement in accordance with § 25-16-901 et~~  
27 ~~seq.~~

28  
29 ~~12-26-106. Powers and duties of committees.~~

30 ~~The committees shall have the authority and responsibility:~~

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

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

1           ~~(3) To advise government officials and other appropriate persons~~  
2 ~~of deficiencies in the facilities and make recommendations for improvements;~~

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

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

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

11  
12           ~~12-26-107. Inspection of facility—Report.~~

13           ~~(a) Except as otherwise provided in this chapter, each committee shall~~  
14 ~~visit and inspect each criminal detention facility and each juvenile~~  
15 ~~detention facility, if any, in its judicial district at least annually for~~  
16 ~~the purpose of determining the conditions of confinement, the treatment of~~  
17 ~~prisoners, and whether the facilities comply with the minimum standards~~  
18 ~~established pursuant to this chapter.~~

19           ~~(b)(1) A written report of each inspection shall be made within thirty~~  
20 ~~(30) days following such inspection to the chief circuit judge for the~~  
21 ~~judicial district within which the facility is located and to the county~~  
22 ~~judge or the governing body of the political subdivision whose facility is~~  
23 ~~the subject of the report.~~

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

26           ~~12-26-108. Failure to meet minimum standards—Procedure.~~

27           ~~(a)(1) If an inspection under this chapter discloses that the criminal~~  
28 ~~detention facility or juvenile detention facility does not meet the minimum~~  
29 ~~standards established by the coordinator, the committee shall send notice,~~  
30 ~~together with the inspection report, to the governing body responsible for~~  
31 ~~the criminal detention facility or juvenile detention facility and to the~~  
32 ~~duly constituted grand jury for the county in which the criminal detention~~  
33 ~~facility or juvenile detention facility is located.~~

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

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

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

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

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

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

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

21           ~~(1) Dismisses the petition of the committee;~~

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

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

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

28  
29           SECTION 2. Arkansas Code 25-1-105(i) and 25-1-105(m), concerning  
30 annual mission statements filed with the Legislative Council, is amended to  
31 read as follows:

32           (i) In August of each year, the following state boards and commissions  
33 shall file their mission statements and annual reports with the Legislative  
34 Council:

35           ~~(1) Criminal Detention Facilities Review Commission, § 12-26-~~

36 ~~104;~~

- 1           ~~(2)~~(1)    Corrections Resources Commi ssi on, § 12-31-101;
- 2           ~~(3)~~(2)    State Records Commi ssi on, § 13-4-105;
- 3           ~~(4)~~(3)    Arkansas Post Museum Advi sory Commi ttee, § 13-5-603;
- 4           ~~(5)~~(4)    Commi ttees appointed by the Governor under the Arkansas
- 5    Hi stori c Preservati on Program;
- 6           ~~(6)~~(5)    Arkansas Public Art Advi sory Board, § 13-8-205;
- 7           ~~(7)~~(6)    Art selection commi ttees appointed by the Arkansas Public
- 8    Art Advi sory Board, § 13-8-206;
- 9           ~~(8)~~(7)    Advi sory commi ttees appointed by the Arkansas Science and
- 10    Technology Authori ty, § 15-3-110;
- 11          ~~(9)~~(8)    Commi ttee to appraise property belonging to the Arkansas
- 12    Economi c Devel opment Commi ssi on, § 15-4-212;
- 13          ~~(10)~~(9)    Advi sory Board to the Di visi on of Land Surveys, § 15-21-
- 14    202;
- 15          ~~(11)~~(10)    Advi sory Council to the Arkansas Natural Heritage
- 16    Commi ssi on - Department of Arkansas Heri tage, § 15-23-307;
- 17          ~~(12)~~(11)    Arkansas Board of Exami ners in Counsel ing, § 17-27-201;
- 18          ~~(13)~~(12)    State Apprenti ce Commi ttee, § 17-38-403;
- 19          ~~(14)~~(13)    Arkansas State Board of Regi strati on for Professional
- 20    Soi l Cl assi fi ers, § 17-47-201;
- 21          ~~(15)~~(14)    Drinki ng Water Advi sory and Operator Li censi ng
- 22    Commi ttee, § 17-51-104;
- 23          ~~(16)~~(15)    Arkansas Board of Heari ng Aid Di spensers, § 17-84-201;
- 24          ~~(17)~~(16)    Prescri pti ve Authori ty Advi sory Commi ttee, § 17-87-205;
- 25          ~~(18)~~(17)    Department of Heal th Emergency Medi cal Servi ces
- 26    Advi sory Commi ttee, § 20-13-506;
- 27          ~~(19)~~(18)    Advi sory commi ttee appointed by the Di rector of the
- 28    Arkansas Poi son and Drug I nformati on Center, § 20-13-706;
- 29          ~~(20)~~(19)    Advi sory Commi ssi on of Arkansas Chi ldren' s Hospi tal , §
- 30    20-16-203;
- 31          ~~(21)~~(20)    Techni cal Advi sory Board of Arkansas Chi ldren' s
- 32    Hospi tal , § 20-16-204;
- 33          ~~(22)~~(21)    Nucl ear Pl anni ng and Response Program Advi sory
- 34    Commi ttee, § 20-21-603;
- 35          ~~(23)~~(22)    Arkansas Fi re Protecti on Li censi ng Board, § 20-22-606;
- 36          ~~(24)~~(23)    Boi l er Advi sory Board, § 20-23-201;





1 ~~14, § 12-26-105;~~  
2 ~~(17) Criminal Detention Facility Review Committee, District No.~~  
3 ~~15, § 12-26-105;~~  
4 ~~(18) Criminal Detention Facility Review Committee, District No.~~  
5 ~~16, § 12-26-105;~~  
6 ~~(19) Criminal Detention Facility Review Committee, District No.~~  
7 ~~17 East, § 12-26-105;~~  
8 ~~(20) Criminal Detention Facility Review Committee, District No.~~  
9 ~~17 West, § 12-26-105;~~  
10 ~~(21) Criminal Detention Facility Review Committee, District No.~~  
11 ~~18 East, § 12-26-105;~~  
12 ~~(22) Criminal Detention Facility Review Committee, District No.~~  
13 ~~18 West, § 12-26-105;~~  
14 ~~(23) Criminal Detention Facility Review Committee, District No.~~  
15 ~~19, § 12-26-105;~~  
16 ~~(24) Criminal Detention Facility Review Committee, District No.~~  
17 ~~20, § 12-26-105; and~~  
18 ~~(25) All other boards or commissions created by state law which~~  
19 ~~are not listed in this section.~~

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