

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

As Engrossed: S3/21/01 H4/10/01

A Bill

SENATE BILL 860

5 By: Senator Everett
6 By: Representative Carson
7
8

For An Act To Be Entitled

9
10 AN ACT TO AMEND AND REPEAL VARIOUS SECTIONS OF
11 THE ARKANSAS CODE TO REVISE AND UPDATE THE LAW
12 GOVERNING THE OPERATION OF THE DIVISION OF YOUTH
13 SERVICES; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 AN ACT TO AMEND AND REPEAL VARIOUS
17 SECTIONS OF THE ARKANSAS CODE TO REVISE
18 AND UPDATE THE LAW GOVERNING THE
19 OPERATION OF THE DIVISION OF YOUTH
20 SERVICES.
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 *Section 1. Arkansas Code 9-28-201 is amended to read as follows:*

26 *9-28-201. Legislative intent and purpose.*

27 *The General Assembly recognizes that the state has a responsibility to*
28 *provide its youth with appropriate services and programs to help decrease the*
29 *number of juvenile offenders in the state and to create a better future for*
30 *the state's youth and that reforms in the juvenile justice system require*
31 *oversight by an organization with special expertise in the problems of*
32 *juvenile offenders. Therefore, the General Assembly declares that this*
33 *subchapter is necessary to create a single entity within the Department of*
34 *Human Services with primary responsibility for coordinating, sponsoring, and*
35 *providing services to Arkansas' youth and to create a structure within state*
36 *government which will be responsive to the needs of the state's youth. The*

1 primary goal shall be to provide prevention, intervention, and sanction
2 services in the least restrictive environment to minimize the necessity of
3 commitment.

4
5 SECTION 2. Division of Youth Services - Powers and Duties.

6 (a) The Division of Youth Services shall have the following powers and
7 perform the following duties:

8 (1) Coordinate communication among the various components of the
9 juvenile justice system;

10 (2) Perform functions of the designated state agency required
11 under P. L. 93-415, the Juvenile Justice and Delinquency Prevention Act of
12 1974, as it existed January 1, 2001, including the collection, review, and
13 reporting of statistical information on detained or incarcerated juveniles
14 for adult jails, adult lockups, and juvenile detention facilities;

15 (3) Actively pursue the maximization of federal funding for
16 juvenile delinquency and related programs;

17 (4) Collect data and conduct research into the causes, nature,
18 and treatment of juvenile delinquency and related problems;

19 (5)(A) Develop and maintain an Audit and Compliance Section to
20 evaluate and monitor all Division of Youth Services' facilities and programs
21 whether operated through a contract or with state employees;

22 (B) The intent of the Audit and Compliance Section shall
23 be to preserve the health, welfare, safety, and rights of all juveniles in
24 the division's custody, or who are under the care of any program operated by
25 the division;

26 (6)(A) Make regular announced and unannounced monitoring visits
27 of all residential facilities and programs housing juveniles in the custody
28 of the division by the Audit and Compliance Section to evaluate whether the
29 division is providing the best possible care for juveniles in a safe
30 environment;

31 (B) All juveniles in the division's custody will be
32 interviewed concerning health and welfare issues at least once a quarter;

33 (C) Each unlicensed or unaccredited residential facility
34 shall be monitored weekly with the juveniles being interviewed concerning
35 health and welfare issues;

36 (D) All facilities will have a full compliance audit at

1 least once a year;

2 (7)(A) Develop, implement and maintain a continuum of community
3 programs which may include:

4 (i) Prevention;

5 (ii) Diagnosis and evaluation;

6 (iii) Intervention;

7 (iv) Casework;

8 (v) Therapy;

9 (vi) Counseling;

10 (vii) Targeted case management;

11 (viii) Programs for alcohol or drug abuse and sex
12 offenders;

13 (ix) Residential services, or

14 (x) Any other rehabilitative service determined by
15 the division to be necessary or beneficial in meeting the needs of the
16 juveniles served by the division;

17 (B)(i) The primary goal of the division's community
18 programs is to reduce delinquency by meeting the needs of juveniles in their
19 community;

20 (ii) These services shall be targeted and identified
21 for at-risk juveniles, delinquents and juveniles who have been found to be a
22 member of a family in need of services;

23 (8) Develop and maintain a supervision and community sanction
24 program for each judicial district that may be imposed in the community to
25 prevent delinquency and reduce commitments to the Division of Youth Services;

26 (9) Develop, implement and maintain a continuum of residential
27 facilities and programs for both committed and non-committed juveniles;

28 (10) Establish a separate residential facility for offenders
29 between the ages of eighteen (18) and twenty-one (21) years who have been
30 committed to the division;

31 (11)(A) Establish objective guidelines for lengths of stay for
32 juveniles committed to the division that ensures similarly situated juveniles
33 are treated in a fair and consistent manner;

34 (B) The objective length of stay may be increased or
35 decreased based on the juvenile's behavior and participation in the
36 division's rehabilitative programming;

1 (12) Develop, implement and maintain a comprehensive process to
2 diagnose and evaluate the treatment needs and appropriate placement of
3 juvenile delinquents;

4 (13) Develop, implement and maintain a comprehensive process of
5 observation, assessment and classification of committed juveniles;

6 (14) Develop, implement and maintain an effective system of
7 aftercare that will assist in the release and reintegration of juveniles back
8 into the community, providing supervision and intervention to ensure an
9 effective transition;

10 (15) Perform all other actions and exercise all authority not
11 inconsistent with Arkansas Code Title 9, Chapter 28, Subchapter 2, and as may
12 be necessary to carry out its purposes and intent;

13 (16) Promulgate rules and regulations as necessary to administer
14 Arkansas Code Title 9, Chapter 28, Subchapter 2, and submit them for review
15 to the House Interim Committee on Aging, Children, and Youth, Legislative and
16 Military Affairs and the Senate Interim Committee on Children and Youth when
17 the General Assembly is not in session, and in the event the General Assembly
18 is in session, the division shall submit these rules and regulations to the
19 House Aging, Children, and Youth, Legislative and Military Affairs Committee
20 and the Senate Judiciary Committee; and

21 (17) Provide the following reports to the House Interim
22 Committee on Aging, Children, and Youth, Legislative and Military Affairs and
23 the Senate Interim Committee on Children and Youth when the General Assembly
24 is not in session, and in the event the General Assembly is in session, the
25 division shall provide these reports to the House Aging, Children, and Youth,
26 Legislative and Military Affairs Committee and the Senate Judiciary
27 Committee:

28 (A) Annual facility compliance audit reports and related
29 corrective action plans for any identified deficiency within thirty (30) days
30 of the division director receiving the audit report;

31 (B) Quarterly performance reports regarding the division's
32 operations and contracted services;

33 (C) Annual report regarding the effectiveness and
34 efficiency of the division's programs and services; and

35 (D) Reports mandated by §§ 9-32-201 through 9-32-207.

36 (b) All of the services identified in this section or later to be

1 determined by the division to be necessary or beneficial in meeting the needs
2 of the juveniles served by the division may be acquired by agreements with
3 contract providers or individuals with the experience and skills required to
4 effectively deliver these services.

5 (c) As used in this section, facilities operated by the division
6 include both facilities staffed by state employees as well as those staffed
7 by contracted agencies.

8
9 SECTION 3. Diagnosis and evaluation.

10 (a)(1) The Division of Youth Services shall develop and maintain the
11 capacity to diagnose and evaluate the treatment, educational, medical, and
12 other needs and problems of committed juveniles, which may contribute to
13 inappropriate behavior and delinquent acts.

14 (2) Diagnosis and evaluation shall at a minimum identify
15 behavioral, social, medical, mental health, and educational problems and
16 needs that are contributing to delinquency.

17 (b)(1) When a rehabilitative need or condition is identified as being
18 a substantial cause of inappropriate or delinquent behavior the Division of
19 Youth Services shall aggressively seek to obtain or provide treatment.

20 (2) When the diagnosis and evaluation identifies treatment
21 needs, to the fullest extent possible, the division will:

22 (A) Provide the juvenile with appropriate treatment; and

23 (B) Segregate the juvenile from those juveniles who are
24 being retained for correctional purposes.

25 (c)(1) All juveniles committed to the division shall go through post
26 commitment diagnosis and evaluation as part of the intake process, except as
27 provided for in subsection (d)(3) of this section.

28 (2) The diagnosis and evaluation will initially be the dominant
29 consideration in determining the appropriate assessment, classification and
30 placement of each juvenile.

31 (d)(1) As funds permit, the Division of Youth Services shall establish
32 a system to provide community based pre-disposition diagnosis and evaluation.

33 (2) The objective of the pre-disposition diagnosis and
34 evaluation shall be to provide the court as much information as possible and
35 to identify alternatives to commitment.

36 (3) When a juvenile has a pre-disposition diagnosis and

1 evaluation and is subsequently committed to the Division of Youth Services,
2 there shall be no requirement to conduct a post-commitment diagnosis and
3 evaluation unless the diagnosis and evaluation report is more than a year
4 old.

5
6 SECTION 4. Commitment to the Division of Youth Services.

7 (a) Juveniles committed to the Division of Youth Services shall be
8 under the exclusive care, custody, and control of the Division of Youth
9 Services from the time the juvenile is accepted at the intake facility until
10 the juvenile is released from the custody of the Division of Youth Services.

11 (b) Expiration of commitment orders:

12 (1) An order of commitment under the Extended Juvenile
13 Jurisdiction Act does not expire or require renewal; and

14 (2) All other commitment orders to the Division of Youth
15 Services shall expire in two (2) years unless the prosecuting attorney,
16 responsible for the county from which the juvenile was committed, or the
17 Division of Youth Services petitions the court for a hearing requesting
18 extension of the commitment under § 9-27-331 and the division receives an
19 extension of the commitment order from the court before expiration of the
20 original commitment order.

21 (c) Upon commitment to the Division of Youth Services, a juvenile
22 shall be delivered to the intake facility designated by the division for the
23 committing judicial district with the order of commitment. The order of
24 commitment shall state:

25 (1) That the juvenile is found to be delinquent for having
26 committed an act that would have been a crime if the juvenile were an adult;

27 (2) The offense or offenses that the juvenile has committed
28 including the code number and degree;

29 (3) The finding of the court concerning the underlying facts of
30 the adjudication; and

31 (4)(A)(i) An order providing that the Division of Youth Services
32 has the authority to make decisions concerning all reasonable and necessary
33 medical care for the juvenile including, but not limited to, all medical,
34 psychological and psychiatric services and hospitalization during the
35 juvenile's commitment.

36 (ii) Whenever possible, the division will consult

1 with the juvenile's parent or guardian concerning medical treatment of a
2 serious nature.

3 (B) The division has the authority to obtain medical,
4 psychiatric, psychological, social and education records during the
5 juvenile's commitment.

6 (d) A court may not commit a juvenile to the Division of Youth
7 Services on a Dependent Neglect petition, a Family in Need of Services
8 petition, a contempt sanction or under any circumstance where the juvenile
9 has not been found to have committed an act that would be a crime if
10 committed by a person twenty-one (21) years of age.

11 (e) In addition to the commitment order, the court shall provide the
12 following to the Division of Youth Services:

13 (1) The risk assessment instrument; and

14 (2) A report on the designated form setting forth, in detail,
15 all available pertinent information concerning the juvenile's background and
16 family status, to include:

17 (A) The name, address and contact information for the most
18 recent legal custodian of the juvenile;

19 (B) Current school records and attendance status;

20 (C) Behavioral tendencies, psychological issues, or known
21 violent or suicidal tendencies; and

22 (D) Any recommendations for treatment the court may wish
23 to make.

24 (f)(1)(A) The Division of Youth Services shall have, for each juvenile
25 committed to the division, the authority to provide all reasonable and
26 necessary medical, psychological, and psychiatric services, including
27 hospitalization, during the period of the juvenile's commitment.

28 (B) Whenever possible, the division will consult with the
29 juvenile's parent or guardian concerning medical treatment of a serious
30 nature.

31 (2) The division will also have the authority to obtain medical,
32 psychiatric, psychological, social and educational records during the period
33 of the commitment.

34
35 SECTION 5. Confidentiality.

36 (a) The records maintained by the division, a contract provider or

1 other agent of the division, and the records of any juvenile who receives
 2 services funded by the Division of Youth Services are confidential and are
 3 not subject to the Freedom of Information Act of 1967, §§ 25-19-101 through
 4 25-19-107 or accessible to the general public unless specifically permitted
 5 by this section or federal law.

6 (b) This section shall be strictly interpreted to provide maximum
 7 confidentiality to records related to a specific juvenile concerning
 8 treatment, psychological evaluations, medical evaluations or treatment.

9 (c) Other general business records of the division, a contract
 10 provider or other agent of the division, for example, billing records or
 11 monitoring reports, shall be disclosed if they are subject to the Freedom of
 12 Information Act of 1967, §§ 25-19-101 through 25-19-107, but the division,
 13 contract provider or other agent of the division shall first redact the names
 14 and any other information that may be used to identify a specific juvenile.

15 (d) The division, a contract provider or other agent of the Division
 16 of Youth Services or their designee may release the records of a juvenile
 17 which have not been expunged when:

18 (1) The division, a contract provider or other agent of the
 19 division is served with a written order to release the records by the
 20 committing court or another court having jurisdiction over the juvenile;

21 (2)(A) It is reasonably necessary to further the care, treatment
 22 or services for the juvenile;

23 (B) Appropriate recipients of records to further the care,
 24 treatment or services include, but are not limited to:

25 (i) The juvenile's parent or legal guardian;

26 (ii) Medical care providers;

27 (iii) Mental health providers;

28 (iv) Service providers;

29 (v) Juvenile court staff;

30 (vi) Another division of the Department of Human
 31 Services;

32 (vii) The juvenile's attorney, guardian ad litem,
 33 Court-appointed Special Advocate and

34 (viii) Any other statutorily established advocacy
 35 groups; or

36 (3)(A) It is reasonably necessary to ensure public safety.

1 (B) The Division of Youth Services shall release
2 information when a juvenile departs without authorization or escapes from
3 custody.

4 (C) The information released is for the sole purpose of
5 aiding in the apprehension of the juvenile and safeguarding the public
6 welfare and shall be limited to the name, age, and description of the
7 juvenile and any other pertinent information the Division of Youth Services
8 deems necessary.

9 (D)(i) The Division of Youth Services may maintain
10 information regarding a juvenile in a manner that will provide access through
11 the Arkansas Crime Information Center if permitted by law.

12 (ii) When the division maintains information
13 regarding a juvenile in a manner that will provide access through the
14 Arkansas Crime Information Center, the division will strictly ensure that all
15 information on a juvenile is kept current and immediately expunged from the
16 system as provided by law.

17 (e) Destruction of records.

18 (1) A juvenile's records will be immediately destroyed upon
19 receipt of an order of expungement from the committing court.

20 (2)(A) When the division, a contract provider or other agent of
21 the division does not receive an order of expungement, the records concerning
22 a committed juvenile shall be destroyed after ten (10) years following the
23 time that the juvenile stops receiving services.

24 (B) Unless prohibited by contract, policy or law, the
25 division, a contract provider or other agent of the division may destroy
26 juvenile records when it determines they are no longer necessary for any
27 rehabilitative purpose.

28 (3)(A) Notwithstanding an order of expungement, the division, a
29 contract provider or other agent of the division may retain juvenile records
30 to the extent necessary for data collection and research related purposes.

31 (B) When records are retained for data collection and
32 research-related purposes, the division, a contract provider or other agent
33 of the division shall not acknowledge the existence of records as to a
34 particular juvenile and shall lawfully answer any inquiry or subpoena by
35 stating no records exist.

36

1 SECTION 6. Assessment, classification and placement.

2 (a)(1) The Division of Youth Services of the Department of Human
3 Services shall develop, promulgate and maintain policy and procedure that
4 regulate the assessment, classification and placement of juveniles.

5 (2) The division's promulgated policy and procedure shall
6 require the separation of juveniles in a manner that will ensure the
7 juveniles the safest possible rehabilitative environment.

8 (b) During the assessment, classification and placement process the
9 division will collect all available information on the juvenile that may
10 assist the division in making the most appropriate classification and
11 placement. The information considered will include, but is not limited to:

12 (1) Any recommendation of the committing judge;

13 (2) The diagnosis and evaluation; where there was no pre-
14 disposition diagnosis and evaluation, a post-commitment diagnosis and
15 evaluation will be performed as a part of the intake process;

16 (3) The age and sex of the juvenile offender;

17 (4) The seriousness of the crime or crimes committed by the
18 juvenile offender;

19 (5) The established objective correctional length of stay for
20 the offense on which the juvenile was committed;

21 (6) The juvenile's criminal history;

22 (7) The nature and extent of services previously provided the
23 juvenile;

24 (8) Whether the juvenile offender has been adjudicated
25 delinquent of a sex offense under § 12-12-903(a)(12);

26 (9) Whether the juvenile has been recommended for sexual
27 offender treatment as a result of an evaluation by an Adolescent Sexual
28 Adjustment Program assessment;

29 (10) The juvenile's physical size and condition;

30 (11) The juvenile's mental aptitude and capacity;

31 (12) The juvenile's prognosis for rehabilitation; and

32 (13) Any other criteria the division shall determine.

33 (c)(1) The diagnosis and evaluation will initially be the dominant
34 consideration in determining each juvenile's assessment, classification and
35 placement.

36 (2) When the diagnosis and evaluation identifies a treatment

1 need, the Division of Youth Services may remove the juvenile from their
2 correctional status and place them in the first available treatment facility
3 or program.

4 (d) During the intake process and prior to placement:

5 (1) A non-sexual offender who does not have a history of
6 aggressive sexual behavior shall not share living quarters or shower with a
7 sexual offender or a juvenile who has exhibited aggressive sexual behavior;
8 and

9 (2)(A) A juvenile under the age of sixteen (16) shall not share
10 a sleeping room or shower with other juveniles who are over the age of
11 sixteen (16), except that the intake facility or program director may find
12 that physical size or mental capacity of a particular juvenile makes sharing
13 a sleeping room or showering with older or younger juveniles appropriate.

14 (B) The basis for making a placement exception must be
15 documented in the juvenile's file prior to the placement.

16 (e) During the placement:

17 (1)(A) Generally, a sexual offender shall be segregated from
18 non-sexual offenders until a licensed mental health professional has found
19 that they have successfully completed a sexual offender program and is ready
20 to be reintegrated into the general population or a licensed mental health
21 professional has diagnosed them as being inappropriate for placement in a
22 sexual offender program;

23 (B) The basis for making an exception to the general rule
24 must be documented in the juvenile's file prior to the placement; and

25 (2) A safety and supervision plan will be used to ensure that:

26 (A) Staff are aware of each juvenile's history of sexual
27 offenses, aggressive or inappropriate sexual behavior, and

28 (B) There is an initial period designated for closer
29 supervision during which staff will maintain line of sight observation of the
30 juvenile.

31 (f) The Division of Youth Services shall maintain a separate program
32 for offenders between the ages of eighteen (18) and twenty-one (21) who have
33 been committed to the Division of Youth Services except that:

34 (1) A juvenile committed after the first day of the sixth month
35 of their seventeenth year may be placed in the eighteen (18) to twenty-one
36 (21) year old program if the juvenile's anticipated length of stay will

1 exceed their eighteenth (18th) birthday; and

2 (2) A juvenile who turns eighteen while placed in a program for
3 juveniles below eighteen (18) may remain in and complete that program,
4 provided it can be done within six (6) months of their eighteenth (18th)
5 birthday and the juvenile is progressing in the program in a positive manner
6 and is appropriate for placement in the facility considering all other
7 factors.

8 (g) While the division shall consider the recommendations of judges,
9 probation officers, service providers and other appropriate parties, the
10 division has sole authority and responsibility for the placement of juveniles
11 committed to the Division of Youth Services.

12
13 SECTION 7. Standards for facilities, residential programs and
14 education.

15 (a)(1) The Division of Youth Services will develop and maintain a
16 continuum of residential facilities and programs for both committed and non-
17 committed juveniles.

18 (2) The physical plant and programs at each residential facility
19 shall be designed and developed to be particularly suitable for the care,
20 custody, education, and rehabilitation of delinquent juveniles and to provide
21 appropriate segregation between juveniles as required by law.

22 (b)(1) All Division of Youth Services residential facilities or
23 programs that are unlicensed or exempt from licensure shall be operated in
24 compliance with the Division of Youth Services Facility Policy Manual.

25 (2) The Division of Youth Services Facility Policy Manual shall
26 be based on the standards established by the American Correctional
27 Association and by the division.

28 (c) The Division of Youth Services shall consider the size of the
29 facility and the staffing available to establish a safe capacity for each
30 facility and shall manage the population in a manner to ensure the facility
31 does not exceed the safe capacity.

32 (d) The educational programs of residential facilities operated by the
33 division which are exempt from licensure as a child welfare agency are
34 entitled to all the rights and privileges of an accredited educational
35 institution of the state.

36 (e)(1) Each juvenile in the custody of the Division of Youth Services

1 shall have access to a curriculum that includes:

2 (A) Regular and special education courses;

3 (B) Courses to teach vocational skills suited to the age
4 and capacity of the juvenile; and

5 (C) Where appropriate, general equivalency diploma
6 programs.

7 (2) The curriculum shall conform to the established guidelines
8 for alternative learning environments or the minimum standards prescribed by
9 the Department of Education.

10 (3) The students shall receive credit for courses completed in
11 the alternative learning environment or the same credit for completing
12 courses that students receive in public schools, as long as the alternative
13 learning environment maintains approval by the Department of Education.

14 (4) Each educational program will assign sufficient time and the
15 appropriately trained personnel to maintain required educational records and
16 transcripts, and respond to requests for records.

17
18 SECTION 8. Regulating the use of force.

19 (a) As used in this section, "reasonable non-deadly physical force"
20 means the minimum force necessary used in a manner consistent with the
21 division's policy, procedure and training to accomplish one of the authorized
22 purposes.

23 (b)(1) The Division of Youth Services shall promulgate a use of force
24 and mechanical restraint policy that requires facilities and staff to take
25 all steps possible to avoid a situation where the use of force or mechanical
26 restraint becomes necessary.

27 (2)(A) The policy should at a minimum mandate training in de-
28 escalation and conflict resolution skills and techniques.

29 (B) Staff may take immediate action to prevent the
30 destruction of property, escape, unauthorized departure or to prevent injury
31 to themselves or others.

32 (C) Deliberate action may be taken to maintain order and
33 compel compliance with program rules only after staff have exhausted all de-
34 escalation and conflict resolution skills and techniques to avoid the use of
35 force taught in the mandatory training.

36 (c) Mechanical restraints may be used by an employee of the Division

1 of Youth Services, a contract provider or other agent of the division:

2 (1) In accordance with the division's policy when transporting a
3 delinquent juvenile;

4 (2) When all other measures provided for in the division's
5 policy and procedure have been exhausted; and

6 (3) Only by staff trained and certified to use mechanical
7 restraints by the division or a certification program approved by the
8 division.

9 (d)(1) Mechanical restraints shall not be used as punishment.

10 (2) The unit manager or shift supervisor must authorize the use
11 of mechanical restraints and restraints must be removed as soon as the
12 juvenile demonstrates self-control.

13 (e)(1) Mechanical restraints may not be used to control or prevent
14 suicide or other behavior that results from a mental health or medical
15 condition unless authorized by a medical doctor, a licensed mental health
16 professional or a facility director trained and certified to authorize the
17 use of mechanical restraints.

18 (2) When mechanical restraints are authorized outside of a
19 hospital or mental health facility the individual authorizing the use of
20 restraints shall take immediate action to have the juvenile assessed for
21 placement in a hospital or mental health facility.

22 (3) The type of mechanical restraints permitted for use shall be
23 explicitly defined and limited by policy.

24 (4)(A) An incident report shall be completed immediately
25 following each use of mechanical restraints for any purpose other than
26 transportation as defined in subsection (c) of this section and the report
27 shall be submitted for review to the division's Internal Affairs Unit.

28 (B) The review will focus on minimizing the use of
29 restraints by improving staff training on conflict resolution and juvenile
30 supervision, proper management of staff and juveniles, and improvement of
31 applicable procedures.

32 (f)(1) No employee of the Division of Youth Services or any private
33 contracted facility that houses juveniles on behalf of the division may
34 possess or use non-lethal agents in the performance of any duty to supervise
35 the delinquents committed to the division.

36 (2) For purposes of this subsection (f), "non-lethal agents"

1 means any chemical propellant, ballistic projectile, electrically charged
2 implement or any other device that by design is manufactured or intended to
3 impair normal physical agility or level of consciousness.

4 (3) This subsection (d) does not apply to the use of any drug
5 prescribed and administered by licensed medical staff.

6 (g)(1) The use of offensive deadly force by any employee of the
7 Division of Youth Services or private contracted facility to maintain order
8 or prevent escape is strictly prohibited.

9 (2) The division will develop emergency response plans for each
10 facility to notify and obtain assistance from local law enforcement agencies
11 in the event the facility staff using force consistent with the division's
12 policy and procedure cannot control the situation.

13 (h) Nothing in this section is intended to:

14 (1) Prohibit law enforcement officers, responding to assist the
15 Division of Youth Services or a contract provider, from using any force,
16 restraints or weapons in a manner consistent with the law and the law
17 enforcement agency's policies and procedures; or

18 (2) Prohibit the Division of Youth Services or one of its
19 contract providers from disciplining or discharging an employee who
20 negligently or recklessly violates this section by using force or mechanical
21 restraints in an unreasonable manner or in a manner not authorized by the
22 Division of Youth Services policy and procedure.

23
24 SECTION 9. Pickup orders and apprehension.

25 (a) The director or designee of the Division of Youth Services may
26 issue a pickup order for any delinquent juvenile in the custody of the
27 division that escapes, absconds or leaves the custody of the division without
28 authorization.

29 (b) If a delinquent juvenile committed to the custody of the Division
30 of Youth Services escapes or leaves the lawful custody of the Division of
31 Youth Services, the juvenile may be detained by any law enforcement officer
32 or agency and returned to the custody of the Division of Youth Services
33 without further proceedings.

34 (c) No law enforcement officer, Department of Human Services'
35 Institutional System Board member, Division of Youth Services employee, or
36 other person shall be subject to suit or held criminally or civilly liable

1 for their actions, provided that they act in good faith and without malice in
2 the apprehension and return of escapees.

3
4 SECTION 10 Release.

5 (a)(1) The release of juveniles committed to the Division of Youth
6 Services is dependent on the manner in which they were committed.

7 (2) Except as provided in subsections (a)(3) or (a)(4) of this
8 section, the release decision on all committed juveniles will be the
9 exclusive responsibility of the Director of the Division of Youth Services or
10 his designee.

11 (3) The committing court as provided for in §§ 9-27-506 and 9-
12 27-507 shall make the release determination for juveniles who were committed
13 under the Extended Juvenile Jurisdiction Act.

14 (4) The release determination of juveniles convicted as adults
15 and committed to be housed by the Division of Youth Services until their
16 sixteenth (16th) birthday will be made by the Post Prison Transfer Board as
17 provided for in § 9-27-510.

18 (5) The release determination for all juveniles who have been
19 removed from a correctional status and placed in a treatment facility or
20 program will be based on whether the juvenile continues to benefit from the
21 treatment, whether the juvenile has successfully completed the treatment
22 program or whether the juvenile may be treated in a less restrictive
23 environment in the community.

24 (6)(A) The release determination for all juveniles who are in a
25 correctional status shall be based on established objective guidelines for
26 length of stay.

27 (B) The objective guidelines are intended to ensure that
28 similarly situated juveniles are treated in a fair and consistent manner.

29 (C) The guidelines shall consider the nature and
30 circumstances of the committing offense and the juvenile's previous
31 delinquency record and commitments.

32 (D) The correctional length of stay of a juvenile may be
33 lengthened or shortened based on the recommendations of the court and the
34 juvenile's behavior and progress while committed.

35 (b)(1) The committing court may, at any time, recommend that a
36 juvenile be released from the custody of the Division of Youth Services.

1 (2) Any recommendation for release shall be provided in writing
2 to the Division of Youth Services stating the reasons release is deemed in
3 the best interest of the juvenile and the community.

4
5 SECTION 11. Aftercare.

6 (a) Finding. The General Assembly finds that in order for the
7 Division of Youth Services to effectively reintegrate committed juvenile
8 delinquents back into the community, the division often must provide
9 aftercare and supervision during the juveniles' reintegration period.

10 (b) Aftercare will consist of a combination of supervision, structured
11 services and treatment as deemed appropriate by the division in order to
12 further the goal of safe and effective reintegration of the juvenile back
13 into the community.

14 (c) The Division of Youth Services shall establish an aftercare
15 provider for each juvenile released on aftercare.

16 (d)(1) The aftercare provider shall establish the aftercare plan based
17 upon all information available.

18 (2) The written aftercare plan shall be read, fully explained
19 and signed by the juvenile and their parent or guardian before their release.

20 (3) A copy of the aftercare plan shall be provided to the court.

21 (4)(A) The conditions of aftercare may be modified as deemed
22 appropriate by the aftercare provider during the period of aftercare.

23 (B) If the aftercare plan is modified, the changes shall
24 be fully explained and signed by the juvenile and their parent or guardian
25 prior to the changes becoming effective.

26 (C) If the juvenile or their parent or guardian refuse to
27 sign the aftercare plan, their refusal will be documented.

28 (e) Aftercare will normally not exceed six (6) months but may be
29 extended by the Director of the Division of Youth Services for up to a year,
30 provided the extension will not exceed the juveniles' twenty-first (21st)
31 birthday or the duration of the most recent commitment order.

32 (f) Based upon the needs of a juvenile, the division may require a
33 juvenile to participate in any of the following as a condition of aftercare:

34 (1) Family counseling;

35 (2) Structured day and evening reporting programs and behavioral
36 day treatment;

1 (3) Substance abuse treatment;

2 (4) School attendance or educational programs;

3 (5) Targeted outpatient treatment services;

4 (6) Community sanction services that do not involve taking a
5 juvenile into physical custody; and

6 (7) Other services as required and available.

7 (g)(1) The Division of Youth Services may provide aftercare to any
8 committed juvenile released from the division's custody but may not return a
9 juvenile to custody unless the court ordered the juvenile to participate in
10 aftercare at the time of commitment.

11 (2)(A) When aftercare is ordered, the division through its
12 contract providers will supervise juveniles for the duration of aftercare.

13 (B) If a juvenile fails to comply with the aftercare plan,
14 the division, or the prosecuting attorney on behalf of the division, may
15 petition the court to revoke aftercare.

16 (h) In addition to the sovereign immunity established by Article 5,
17 Section 20, Constitution of the State of Arkansas, the Department of Human
18 Services and its divisions and offices, the Department of Human Services
19 Institutional System Board Members, Division of Youth Services employees,
20 contract providers, or other agents of the department or division:

21 (1) Shall not be subject to suit, or held civilly liable for
22 damages caused by any juvenile while on aftercare unless an act or omission
23 was the proximate cause of the claimed injury or damages; and

24 (2) Shall be immune from any claim submitted to the Arkansas
25 State Claims Commission for damages caused by any juvenile while in aftercare
26 unless an act or omission was the proximate cause of the claimed injury or
27 damages.

28
29 SECTION 12. (a) The Department of Health shall conduct:

30 (1)(A) Food services evaluations twice annually of all
31 residential facilities operated by the Division of Youth Services which are
32 either unlicensed or unaccredited.

33 (B) If there are significant findings, follow up visits
34 shall be conducted within twenty (20) days.

35 (C) Routine monitoring shall include the following areas:

36 (i) Sources of food products;

1 (ii) Storage conditions;

2 (iii) Preparation methods and sanitation;

3 (iv) Holding prepared foods prior to serving;

4 (v) Cross-contamination issues; and

5 (vi) Use of carry over prepared foods or leftovers.

6 (2)(A) General sanitation inspections twice annually of all
7 residential facilities operated by the Division of Youth Services which are
8 either unlicensed or unaccredited.

9 (B) If there are significant findings, follow up visits
10 shall be conducted within twenty (20) days.

11 (C) The general sanitation inspections shall include the
12 following areas:

13 (i) Water supply purity;

14 (ii) Waste systems;

15 (iii) Garbage management;

16 (iv) Medical waste management;

17 (v) Accountability and proper storage of
18 prescription drugs; and

19 (vi) Overall facility sanitation.

20 (3)(A) The Director of the Department of Health will present a
21 semi-annual report on the food services and general sanitation inspections
22 mandated in this section to the House Interim Committee on Aging, Children,
23 and Youth, Legislative and Military Affairs and the Senate Interim Committee
24 on Children and Youth when the General Assembly is not in session.

25 (B) In the event the General Assembly is in session, the
26 director shall provide the report to the House Aging, Children, and Youth,
27 Legislative and Military Affairs Committee and the Senate Judiciary
28 Committee.

29 (C) The report shall be submitted at the beginning of the
30 first and third quarters of the state fiscal year.

31 (4)(A) The Director of the Division of Youth Services shall file
32 a response to the report submitted by the Director of the Department of
33 Health along with a corrective action plan for any deficiencies identified.

34 (B) The response shall be submitted within thirty (30)
35 days after receiving the report.

36 (b) The Department of Health shall review the process used by the

1 Audit and Compliance Section of the Division of Youth Services. The review
2 will include:

3 (1) An annual review and evaluation of the division's
4 promulgated policy manual for residential facilities to ensure it meets or
5 exceeds the American Correctional Association standards for residential
6 facilities.

7 (2) An annual full compliance audit of the division's unlicensed
8 and unaccredited residential facilities and an evaluation and report on the
9 effectiveness of the division's monitoring.

10 (c) The Arkansas Department of Health will provide the Division of
11 Youth Services' director or the director's designee with timely briefings on
12 any identified deficiencies in the divisions' monitoring process so that a
13 corrective action plan can be immediately developed and implemented.

14 (d) The Department of Human Services shall reimburse all expenses and
15 costs to the Department of Health necessary to carry out subsection (b) of
16 this section.

17 (e)(1) The Director of the Department of Health will present an annual
18 report on the effectiveness of the audit process used by the Division of
19 Youth Services to the House Interim Committee on Aging, Children, and Youth,
20 Legislative and Military Affairs and the Senate Interim Committee on Children
21 and Youth when the General Assembly is not in session.

22 (2) In the event the General Assembly is in session, the
23 Director shall provide the report to the House Aging, Children, and Youth,
24 Legislative and Military Affairs Committee and the Senate Judiciary
25 Committee.

26 (3) The report shall be submitted at the beginning of the fourth
27 quarter of the state fiscal year.

28 (f)(1) The Director of the Division of Youth Services shall file a
29 response to the report submitted by the Director of the Arkansas Department
30 of Health along with a corrective action plan for any deficiencies
31 identified.

32 (2) The response shall be submitted within thirty (30) days
33 after receiving the report.

34 (g)(1) The Division of Youth Services shall develop the monitoring
35 personnel and systems necessary to ensure that the Division of Youth Services
36 has safe and secure residential facilities.

1 (2) The external monitoring process established in subsection
 2 (b) of this section will expire on July 1, 2003, unless extended by the
 3 General Assembly.

4 (h) The monitoring reports provided for by this section are subject to
 5 the Freedom of Information Act of 1967, §§ 25-19-101 through 25-19-107, but
 6 the Division of Youth Services shall, before releasing a report, redact the
 7 names and any information which may be used to identify a specific juvenile.

8 (i) The expiration of subsection (b) of this section shall in no way
 9 affect or limit the statutory duty and authority of the Department of Health
 10 to inspect the facilities and programs of the Division of Youth Services as
 11 provided for by law.

12
 13 SECTION 13. Arkansas Code 9-27-303(10) is amended to read as follows:

14 (10) "Commitment" means an order of the court which places a juvenile
 15 in the custody of the Division of Youth Services of the Department of Human
 16 Services for appropriate placement ~~in a youth services facility.~~

17
 18 SECTION 14. Arkansas Code 9-27-303 is amended to add an additional
 19 subdivision to read as follows:

20 (49)(A) "Supervision and community sanction program" means a Division
 21 of Youth Services program operated by a contract provider for each judicial
 22 district to provide supervision and community sanction services to
 23 adjudicated delinquents and adjudicated Families in Need of Services youth.

24 (B) The program shall establish the nature and extent of the
 25 sanctions available as part of the program and the manner in which they are
 26 applied.

27 (C) The sanctions shall be increased or decreased based upon the
 28 behavior of the juvenile while in the program. The sanctions may include,
 29 but are not limited to, the following:

30 (i) House arrest as enforced by electronic monitoring or
 31 intensive supervision;

32 (ii) Restitution; and

33 (iii) Community service.

34
 35 SECTION 15. Arkansas Code 9-27-320(b) and (c), concerning copies of
 36 juvenile's fingerprints and photographs, are amended to read as follows:

1 (b)(1) Copies of a juvenile's fingerprints and photograph shall be
2 made available only to other law enforcement agencies, the Arkansas Crime
3 Information Center, prosecuting attorneys, and the juvenile court.

4 (2) Photographs and fingerprints of juveniles adjudicated
5 delinquent for offenses for which they could have been tried as adults shall
6 be made available to prosecuting attorneys and circuit courts for use at
7 sentencing in subsequent adult criminal proceedings against those same
8 individuals.

9 ~~(3)(A) When a juvenile departs without authorization from a youth~~
10 ~~services center or other facility operated by the Division of Youth Services~~
11 ~~for the care of delinquent juveniles, if at the time of departure the~~
12 ~~juvenile is committed or detained for an offense for which the juvenile could~~
13 ~~have been tried as an adult, the Director of the Youth Services shall release~~
14 ~~to the general public the name, age, and description of the juvenile and any~~
15 ~~other pertinent information the director deems necessary to aid in the~~
16 ~~apprehension of the juvenile and to safeguard the public welfare.~~

17 ~~(B)~~(3)(A) When a juvenile departs without authorization from the
18 State Hospital, if at the time of departure the juvenile is committed as a
19 result of an acquittal on the grounds of mental disease or defect for an
20 offense for which the juvenile could have been tried as an adult, the
21 Director of the Division of Mental Health Services shall release to the
22 general public the name, age, and description of the juvenile and any other
23 pertinent information the director deems necessary to aid in the apprehension
24 of the juvenile and to safeguard the public welfare.

25 ~~(C)~~(B) When a juvenile departs without authorization from
26 a local juvenile detention facility, if at the time of departure the juvenile
27 is committed or detained for an offense for which the juvenile could have
28 been tried as an adult, the director of the juvenile detention facility shall
29 release to the general public the name, age, and description of the juvenile
30 and any other pertinent information the director deems necessary to aid in
31 the apprehension of the juvenile and to safeguard the public welfare.

32 (c) Each law enforcement agency in the state shall keep a separate
33 file of photographs and fingerprints of juveniles, it being the intention
34 that the photographs and fingerprints of juveniles not be kept in the same
35 file with those of adults.

36

1 SECTION 16. Arkansas Code 9-27-330 is amended to read as follows:

2 9-27-330. Disposition – Delinquency – Alternatives.

3 (a) If juvenile is found to be delinquent, the court may enter an
4 order making any of the following dispositions based upon the best interests
5 of the juvenile:

6 (1)(A) Transfer legal custody of the juvenile to any licensed
7 agency responsible for the care of delinquent juveniles or to a relative or
8 other individual;

9 (B)(i) Commit the juvenile to ~~a youth services center~~ the
10 Division of Youth Services using the risk assessment system for Arkansas
11 juvenile offenders distributed and administered by the Administrative Office
12 of the Courts.

13 (ii) The risk assessment may be modified by the
14 Juvenile Committee of the Arkansas Judicial Council with the Division of
15 Youth Services.

16 (iii) In an order of commitment, the court may
17 recommend that a juvenile be placed in a community-based program instead of a
18 ~~youth services center~~ the Division of Youth Services and shall make specific
19 findings in support of such a placement in the order.

20 (iv) Upon receipt of an order of commitment with
21 recommendations for placement, the Division of Youth Services of the
22 Department of Human Services shall consider the recommendations of the
23 committing court in placing a youth ~~in a youth services facility or a~~
24 ~~community based program~~.

25 (v) At the time of commitment, the court may order
26 the juvenile to be placed on probation or participate in aftercare upon
27 release.

28 (C) In all cases in which both commitment and transfer of
29 legal custody are ordered by the court in the same order, transfer of custody
30 will be entered only upon compliance with the provisions of §§ 9-27-310 – 9-
31 27-312, 9-27-316, 9-27-327, and 9-27-328;

32 (2) Order the juvenile or members of the juvenile's family to
33 submit to physical, psychiatric, or psychological evaluations;

34 (3) Grant permanent custody to an individual upon proof that the
35 parent or guardian from whom the juvenile has been removed has not complied
36 with the orders of the court and that no further services or periodic reviews

1 are required;

2 (4)(A) Place the juvenile on probation under those conditions
3 and limitations that the court may prescribe pursuant to § 9-27-339(a).

4 (B)(i) In addition, the court shall have the right, as a
5 term of probation, to require the juvenile to attend school or make
6 satisfactory progress toward a general educational development certificate.

7 (ii) The court shall have the right to revoke
8 probation if the juvenile fails to regularly attend school or if satisfactory
9 progress toward a general educational development certificate is not being
10 made;

11 (5) Order a probation fee, not to exceed twenty dollars (\$20.00)
12 per month, as provided in § 16-13-326(a);

13 (6) Assess a court cost of no more than thirty-five dollars
14 (\$35.00) to be paid by the juvenile, his parent, both parents, or his
15 guardian;

16 (7)(A) Order restitution to be paid by the juvenile, a parent,
17 both parents, the guardian, or his custodian.

18 (B) If the custodian is the State of Arkansas, both
19 liability and the amount which may be assessed shall be determined by the
20 Arkansas State Claims Commission;

21 (8) Order a fine of not more than five hundred dollars (\$500) to
22 be paid by the juvenile, a parent, both parents, or the guardian;

23 (9) Order that the juvenile and his parent, both parents, or the
24 guardian perform court-approved volunteer service in the community, designed
25 to contribute to the rehabilitation of the juvenile or to the ability of the
26 parent or guardian to provide proper parental care and supervision of the
27 juvenile, not to exceed one hundred sixty (160) hours;

28 (10)(A) Order that the parent, both parents, or the guardian of
29 the juvenile attend a court-approved parental responsibility training program
30 if available.

31 (B) The court may make reasonable orders requiring proof
32 of completion of the training program within a certain time period and
33 payment of a fee covering the cost of the training program.

34 (C) The court may provide that any violation of the orders
35 shall subject the parent, both parents, or the guardian to the contempt
36 sanctions of the court;

1 (11)(A)(i) Order that the juvenile remain in a juvenile
2 detention facility for an indeterminate period not to exceed ninety (90)
3 days.

4 (ii) The court may further order that the juvenile
5 be eligible for work release or to attend school or other educational or
6 vocation training.

7 (B) The juvenile detention facility shall afford
8 opportunities for education, recreation, and other rehabilitative services to
9 adjudicated delinquents;

10 (12) Place the juvenile on residential detention with electronic
11 monitoring, either in the juvenile's home or in another facility as ordered
12 by the court;

13 (13)(A) Order the juvenile to participate in the Division of
14 Youth Services' supervision and community sanction program.

15 (B)(i) The Division of Youth Services shall provide a
16 supervision and community sanction program for each judicial district.

17 (ii) The division may manage the availability of the
18 supervision and community sanction program for each judicial district to
19 remain within the funds appropriated by the General Assembly for community
20 sanctions.

21 ~~(13)~~(14)(A) Order the parent, both parents, or the guardian of
22 any juvenile adjudicated delinquent and committed to ~~a youth services center~~
23 the Division of Youth Services or detained in a juvenile detention facility
24 to be liable for the cost of the commitment or detention.

25 (B)(i) The court shall take into account the financial
26 ability of the parent, both parents, or the guardian to pay for such
27 commitment, or detention, or foster care.

28 (ii) The court shall take into account the past
29 efforts of the parent, both parents, or the guardian to correct the
30 delinquent juvenile's conduct.

31 (iii) The court shall take into account, if the
32 parent is a noncustodial parent, the opportunity the parent has had to
33 correct the delinquent juvenile's conduct.

34 (iv) The court shall take into account any other
35 factors the court deems relevant; or

36 ~~(14)~~(15)(A) Order the Department of Finance and Administration

1 to suspend the driving privileges of any juvenile adjudicated delinquent.

2 (B) The order shall be prepared and transmitted to the
3 department within twenty-four (24) hours after the juvenile has been found
4 delinquent and is sentenced to have his driving privileges suspended.

5 (C) The court may provide in the order for the issuance of
6 a restricted driving permit to allow driving to and from a place of
7 employment or driving to and from school or for other circumstances.

8 (b) The juvenile court shall specifically retain jurisdiction to amend
9 or modify any orders entered pursuant to subdivisions ~~(a)(4)(12)~~ (a)(4)(15)
10 of this section.

11 (c)(1) If a juvenile is adjudicated delinquent for possession of a
12 handgun, as provided in § 5-73-119, or criminal use of prohibited weapons, as
13 provided in § 5-73-104, or possession of a defaced firearm, as provided in
14 §5-73-107, the court shall commit the juvenile:

15 (A) To a juvenile detention facility, as provided in
16 subdivision (a)(11) of this section; or

17 (B) To a ~~youth services center operated by the Department~~
18 ~~of Human Services State Institutional System Board~~ the Division of Youth
19 Services, as provided in subdivision (a)(1) of this section; or

20 (C) Place the juvenile on residential detention, as
21 provided in subdivision (a)(12) of this section.

22 (2) The court may take into consideration any preadjudication
23 detention period served by the juvenile and sentence the juvenile to the time
24 served.

25 (d)(1) When the court orders restitution pursuant to subdivision (a)
26 (7) of this section, the court shall consider the following:

27 (A) The amount of restitution may be decided:

28 (i) If the juvenile is to be responsible for the
29 restitution, by agreement between the juvenile and the victim; or

30 (ii) If the parent or parents are to be responsible
31 for the restitution, by agreement between the parent or parents and the
32 victim; or

33 (iii) If the juvenile and the parent or parents are
34 to be responsible for the restitution, by agreement between the juvenile, his
35 parent or parents, and the victim; or

36 (iv) At a hearing at which the state must prove the

1 *restitution amount by a preponderance of the evidence.*

2 *(B) Restitution shall be made immediately, unless the*
3 *court determines that the parties should be given a specified time to pay or*
4 *should be allowed to pay in specified installments;*

5 *(C)(i) In determining if restitution should be paid and by*
6 *whom, as well as the method and amount of payment, the court shall take into*
7 *account:*

8 *(a) The financial resources of the juvenile,*
9 *his parent, both parents, or the guardian, and the burden the payment will*
10 *impose with regard to the other obligations of the paying party;*

11 *(b) The ability to pay restitution on an*
12 *installment basis or on other conditions to be fixed by the court;*

13 *(c) The rehabilitative effect of the payment*
14 *of restitution and the method of payment; and*

15 *(d) The past efforts of the parent, both*
16 *parents, or the guardian to correct the delinquent juvenile's conduct.*

17 *(ii)(a) The court shall take into account if the*
18 *parent is a noncustodial parent.*

19 *(b) The court may take into consideration the*
20 *opportunity the parent has had to correct the delinquent juvenile's conduct;*
21 *and*

22 *(iii) The court shall take into account any other*
23 *factors the court deems relevant.*

24 *(2) If the juvenile is placed on probation, any restitution*
25 *ordered under this section may be a condition of the probation.*

26 *(e) When an order of restitution is entered, it may be collected by*
27 *any means authorized for the enforcement of money judgments in civil actions,*
28 *and it shall constitute a lien on the real and personal property of the*
29 *persons and entities the order of restitution is directed upon in the same*
30 *manner and to the same extent as a money judgment in a civil action.*

31 *(f)(1) The judgment entered by the court may be in favor of the state,*
32 *the victim, or any other appropriate beneficiary.*

33 *(2) The judgment may be discharged by a settlement between the*
34 *parties ordered to pay restitution and the beneficiaries of the judgement.*

35 *(g) The court shall determine priority among multiple beneficiaries on*
36 *the basis of the seriousness of the harm each suffered, their other*

1 resources, and other equitable factors.

2 (h) If more than one (1) juvenile is adjudicated delinquent of an
3 offense for which there is a judgment under this section, the juveniles are
4 jointly and severally liable for the judgment unless the court determines
5 otherwise.

6 (i)(1) A judgment under this section does not bar a remedy available
7 in a civil action under other law.

8 (2) A payment under this section must be credited against a
9 money judgment obtained by the beneficiary of the payment in a civil action.

10 (3) A determination under this section and the fact that payment
11 was or was not ordered or made are not admissible in evidence in a civil
12 action and do not affect the merits of the civil action.

13 (j) If a juvenile is adjudicated delinquent as an extended juvenile
14 jurisdiction offender, the court shall enter the following dispositions:

15 (1) (1) Order any of the juvenile delinquency dispositions
16 authorized by § 9-27-330; and

17 (2) Suspend the imposition of an adult sentence pending juvenile
18 court review.

19

20 SECTION 17. Arkansas Code 9-27-331(a) and (b), concerning the release
21 of juveniles from commitment, is amended to read as follows.

22 ~~(a)(1) A commitment to the Division of Youth Services of the Department~~
23 ~~of Human Services is for an indeterminate period, not to exceed the~~
24 ~~eighteenth birthday of a juvenile, except as otherwise provided by law.~~

25 ~~(2)(a)(1) An order of commitment to the Division of Youth Services,~~
26 ~~for a juvenile committed as an extended juvenile jurisdiction offender, shall~~
27 ~~remain in effect until the court orders release or the juvenile reaches their~~
28 ~~twenty-first (21st) birthday, whichever comes first.~~

29 ~~(2) All other commitment orders shall remain in effect for an~~
30 ~~indeterminate period not exceeding two (2) years from the date entered or the~~
31 ~~juvenile reaches their twenty-first (21st) birthday.~~

32 (3) Prior to the expiration of an order of commitment, the
33 prosecuting attorney, responsible for the county from which the juvenile was
34 committed, or the Division of Youth Services, may petition the court for a
35 hearing and request an extension of the commitment. ~~‡~~The court may extend the
36 order for additional periods of one (1) year if it finds the extension is

1 necessary to safeguard the welfare of the juvenile or the interest of the
2 public.

3 (4)(A) The committing court may recommend, at any time, that a
4 juvenile be released from the custody of the Division of Youth Services by
5 making a written request for release stating the reasons release is deemed in
6 the best interests of the juvenile and society.

7 (B) In the commitment order, the committing court may
8 order the juvenile, when released by the Division of Youth Services, to
9 participate in either probation or aftercare, but not both.

10 (5) Length of stay and final decision to release shall be the
11 exclusive responsibility of the Division of Youth Services, except when the
12 juvenile is an extended juvenile jurisdiction offender.

13 ~~(b)(1)(A) Subsection (a) of this section does not apply to extended~~
14 ~~juvenile jurisdiction offenders.~~

15 (6) Juveniles eighteen (18) years of age or older may not be
16 committed to the Division of Youth Services if they have pending felony
17 charges in adult court or have been convicted of a felony in adult court.

18 ~~(2)(A)(b) Release process for extended juvenile jurisdiction~~
19 ~~offenders:~~

20 ~~(B)(1) The juvenile court shall have sole release authority when~~
21 ~~an extended juvenile jurisdiction offender is committed to the Division of~~
22 ~~Youth Services.~~

23 (2) Upon a determination that the juvenile has ~~been~~
24 ~~rehabilitated~~ made substantial progress toward rehabilitation and is ready to
25 begin the reintegration process back into the community, the Division of
26 Youth Services may petition the court for the juvenile to be released ~~release~~
27 on probation, aftercare or as provided by law.

28 ~~(B)(3) The court shall conduct a hearing and shall consider the~~
29 ~~following factors in making its determination to release the juvenile from~~
30 ~~the Division of Youth Services:~~

31 ~~(i)(A) The experience and character of the juvenile before~~
32 ~~and after the juvenile disposition, including compliance with the court's~~
33 ~~orders;~~

34 ~~(ii)(B) The nature of the offense or offenses and the~~
35 ~~manner in which they were committed;~~

36 ~~(iii)(C) The recommendations of the professionals who have~~

1 worked with the juvenile;

2 ~~(iv)~~(D) The protection of public safety; and

3 ~~(v)~~(E) Opportunities provided to the juvenile for
4 rehabilitation and the juvenile's efforts toward rehabilitation.

5 ~~(3)~~(4) The court shall release the juvenile upon a finding by a
6 preponderance of the evidence that the juvenile's release does not pose a
7 substantial threat to public safety.

8

9 SECTION 18. Arkansas Code 9-27-339 is amended to read as follows:
10 9-27-339. Probation - Revocation.

11 (a) After an adjudication of delinquency, the court may place a
12 juvenile on probation. The conditions of probation shall be given to the
13 juvenile in writing and explained to him and to his parent, guardian, or
14 custodian by the probation officer in the initial conference following the
15 disposition hearing.

16 (b) Any violation of a condition of probation may be reported to the
17 prosecuting attorney, who may initiate a petition in the court for revocation
18 of probation. A petition for revocation of probation shall contain specific
19 factual allegations constituting each violation of a condition of probation.

20 (c) The petition alleging violation of a condition of probation and
21 seeking revocation of probation shall be served upon the juvenile, his
22 attorney, and his parent, guardian, or custodian.

23 (d) A revocation hearing shall be set within a reasonable time after
24 the filing of the petition, or within fourteen (14) days if the juvenile has
25 been detained as a result of the filing of the petition for revocation.

26 (e) If the court finds by a preponderance of the evidence that the
27 juvenile violated the terms and conditions of probation, the court may:

28 (1) Extend probation;

29 (2) Impose additional conditions of probation;

30 (3) Make any disposition that could have been made at the time
31 probation was imposed; or

32 (4)(A) Commit the juvenile to a juvenile detention facility for
33 an indeterminate period not to exceed ninety (90) days.

34 (B) The court may further order that the juvenile be
35 eligible for work release or to attend school or other educational or
36 vocational training.

1 (f)(1) Nonpayment of restitution, fines, or court costs may constitute
2 a violation of probation, unless the juvenile shows that his default was not
3 attributable to a purposeful refusal to obey the sentence of the court or was
4 not due to a failure on his part to make a good faith effort to obtain the
5 funds required for payment.

6 (2) In determining whether to revoke probation, the court shall
7 consider the juvenile's employment status, earning ability, financial
8 resources, the willfulness of the juvenile's failure to pay, and any other
9 special circumstances that may have a bearing on the juvenile's ability to
10 pay.

11 (3) If the court determines that the default in payment of a
12 fine, costs, or restitution is excusable under subdivision (f)(1) of this
13 section, the court may enter an order allowing the juvenile additional time
14 for payment, reducing the amount of each installment, or revoking the fine,
15 costs, or restitution or unpaid portion thereof in whole or in part.

16 (g) After an adjudication of delinquency and in the original
17 commitment order, the court may order a juvenile committed to the Division of
18 Youth Services to participate in an aftercare program, pursuant to § 9-28-
19 216. The court shall retain jurisdiction over the juvenile for the period of
20 the aftercare plan.

21 (1) The Division of Youth Services aftercare provider shall
22 develop an aftercare plan with the juvenile and his parent, guardian, or
23 custodian prior to the juvenile's release from the Division of Youth
24 Services.

25 (2) Aftercare conditions shall be given to the juvenile in
26 writing and explained to him and to his parent, guardian, or custodian by the
27 aftercare provider.

28 (3) The aftercare provider shall provide a copy of the aftercare
29 plan to the court within 30 days of the juvenile's release from the Division
30 of Youth Services.

31 (h) Upon a determination that a juvenile has violated a condition of
32 the aftercare plan, the aftercare provider may authorize any community
33 sanction that does not involved detention or recommi tment.

34 (i) Division of Youth Services or the prosecuting attorney on behalf
35 of the Division of Youth Services may file a petition to revoke aftercare.

36 (1) The petition alleging an aftercare violation and seeking a

1 revocation shall be served upon the juvenile, his attorney, and his parent,
2 guardian, or custodian.

3 (2) The petition shall contain specific factual allegations
4 constituting each violation of aftercare.

5 (3) If the juvenile is taken into custody as a result of the
6 aftercare revocation petition, the court shall appoint counsel for the
7 juvenile and shall conduct a detention hearing as soon as possible, but no
8 later than seventy-two (72) hours. If the seventy-two (72) hours falls on a
9 weekend or holiday then the next business day.

10 (4) An aftercare revocation hearing shall be set within a
11 reasonable time after the filing of the petition, or within fourteen (14)
12 days if the juvenile has been detained as a result of the filing of the
13 petition for revocation.

14 (5) If the court finds by a preponderance of the evidence that
15 the juvenile violated the terms and conditions of aftercare, the court may:

16 (A) Release the juvenile and impose additional aftercare
17 conditions or restrictions;

18 (B) Order the juvenile to be placed on residential
19 detention with electronic monitoring;

20 (C) Order the juvenile to be detained in a juvenile
21 detention facility, not to exceed ninety (90) days; or

22 (D) Re-commit the juvenile to the Division of Youth
23 Services.

24
25 SECTION 19. Arkansas Code 9-27-509 is amended to read as follows:

26 9-27-509. Division of Youth Services – Commitment of extended juvenile
27 jurisdiction juveniles.

28 (a) The court has sole release authority for juveniles in extended
29 juvenile jurisdiction proceedings.

30 (b) In every case where an order of commitment has been entered
31 pursuant to an adjudication of delinquency, the facility to which the
32 juvenile is committed shall, within thirty (30) days of the juvenile's
33 commitment, prepare and file with the court a treatment case plan which
34 shall:

35 (1) State the treatment plan for the juvenile; and

36 (2) State the anticipated length of commitment of the juvenile.

1 (c)(1) *Upon a determination that the juvenile has ~~been rehabilitated~~*
2 *made substantial progress toward rehabilitation and is ready to begin the*
3 *reintegration process back into the community,* the Division of Youth Services
4 *of the Department of Human Services may petition the court for ~~release~~ the*
5 *juvenile to be released on probation, aftercare or as provided by law.*

6 (2) *The court shall conduct a hearing and shall consider the*
7 *following factors in making its determination to release the juvenile from*
8 *the Division of Youth Services:*

9 (A) *The experience and character of the juvenile before*
10 *and after the juvenile disposition, including compliance with the court's*
11 *orders;*

12 (B) *The nature of the offense or offenses and the manner*
13 *in which they were committed;*

14 (C) *The recommendations of the professionals who have*
15 *worked with the juvenile;*

16 (D) *The protection of public safety; and*

17 (E) *Opportunities provided to the juvenile for*
18 *rehabilitation and the juvenile's efforts toward rehabilitation.*

19 (3) *The court shall release the juvenile upon a finding by a*
20 *preponderance of the evidence that the juvenile's release does not pose a*
21 *substantial threat to public safety.*

22
23 SECTION 20. *Arkansas Code Title 9, Chapter 28, Subchapter 2 is amended*
24 *to add an additional section to read as follows:*

25 9-28-217. Access to medical records.

26 (a) The Division of Youth Services shall have access to and may obtain
27 copies of all medical records pertaining to any juvenile within its
28 facilities, care, or custody including, but not limited to, test results,
29 treatment records, and examination reports generated prior to the commitment
30 to the Division of Youth Services or based upon medical care received outside
31 the Division of Youth Services during the period of the juvenile's
32 commitment, regardless of whether the juvenile consents to the release of the
33 information.

34 (b) Any entity or person in possession of the records or information
35 has a duty to disclose it to the Division of Youth Services upon written
36 request by the Director of the Division of Youth Services or the director's

1 designee. Any hospital, clinic, medical office, or other entity and the
 2 owners, officers, directors, employees, or agents of the entity, or any other
 3 person who, in good faith, furnishes any records or information to the
 4 Division of Youth Services under this subsection (b) shall be immune from
 5 liability, civil or criminal, that might be incurred or imposed in the
 6 absence of this subsection (b).

7
 8 SECTION 21. Arkansas Code 9-27-101 is repealed.

9 ~~9-27-101. The Director of the Arkansas Department of Human Services is~~
 10 ~~authorized and empowered to appoint a supervisor of juvenile court work and~~
 11 ~~such other employees as may be necessary, over which organization,~~
 12 ~~supervisor, and employees the Department of Human Services shall have~~
 13 ~~exclusive direction and control.~~

14
 15 SECTION 22. Arkansas Code 9-28-203 is repealed.

16 ~~9-28-203 Division of Youth Services. Powers and duties.~~

17 ~~(a) The Division of Youth Services shall perform the following~~
 18 ~~functions and have the authority and responsibility to:~~

19 ~~(1) Coordinate communication among the various components of the~~
 20 ~~juvenile justice system;~~

21 ~~(2) Oversee reform of the state's juvenile justice system;~~

22 ~~(3) Provide services to delinquent and families in need of~~
 23 ~~services youths;~~

24 ~~(4) Conduct research into the causes, nature, and treatment of~~
 25 ~~juvenile delinquency and related problems;~~

26 ~~(5) Develop programs for early intervention and prevention of~~
 27 ~~juvenile delinquency;~~

28 ~~(6) Maintain information files on juvenile delinquents in the~~
 29 ~~state;~~

30 ~~(7) Actively pursue the maximization of federal funding for~~
 31 ~~juvenile delinquency and related programs;~~

32 ~~(8) Evaluate the effectiveness and efficiency of the programs~~
 33 ~~and services offered by the division and recommend changes to the Governor;~~
 34 ~~and~~

35 ~~(9) Do and perform all other actions and exercise all other~~
 36 ~~authority not inconsistent with the provisions of this subchapter as may be~~

1 ~~necessary to carry out the purposes and intent of this subchapter.~~

2 ~~(b) In addition to other duties enumerated in this subchapter, the~~
3 ~~Division of Youth Services shall provide services as follows:~~

4 ~~(1) The Civilian Student Training Program shall provide services~~
5 ~~to youths which shall consist of, but not be limited to, school~~
6 ~~reintegration, counseling, tutoring, job placement counseling, corrective~~
7 ~~behavior skill counseling, and training;~~

8 ~~(2)(A) Case management services will include, but not be limited~~
9 ~~to:~~

10 ~~(i) Making placement recommendations to court~~
11 ~~authorities; and~~

12 ~~(ii) Arrangement, coordination, and monitoring of~~
13 ~~services for a juvenile.~~

14 ~~(B) These services may be acquired by agreement with~~
15 ~~community providers, other agencies, or individuals as may be necessary;~~

16 ~~(3)(A) Client specific services shall consist of, but not be~~
17 ~~limited to:~~

18 ~~(i) Independent living, tracker, or proctor~~
19 ~~services;~~

20 ~~(ii) Family or individual therapy; and~~

21 ~~(iii) Individualized treatment or supportive care~~
22 ~~services.~~

23 ~~(B) These services may be acquired by agreement with~~
24 ~~community providers or other agencies or individuals deemed professionally~~
25 ~~capable of delivering the required services;~~

26 ~~(4)(A) Serious offender programs, for youths charged with violent~~
27 ~~offenses, shall consist of appropriate residential treatment programs at any~~
28 ~~of the youth services centers or facilities.~~

29 ~~(B) Serious offender programs or community based programs~~
30 ~~may be acquired by agreements with entities or agencies deemed appropriate~~
31 ~~and capable of providing such services;~~

32 ~~(5) Less restrictive community based programs selected by the~~
33 ~~Director of the Division of Youth Services for youths not deemed at risk of~~
34 ~~performing violent offenses;~~

35 ~~(6)(A) Observation and assessment services shall consist of, but~~
36 ~~not be limited to, those activities necessary to ensure appropriate~~

1 ~~recommendations for intervention, services, and placement of low risk and~~
2 ~~medium risk juveniles.~~

3 ~~(B) Observation and assessment services may be acquired by~~
4 ~~agreements with community providers or other agencies or individuals deemed~~
5 ~~to have the appropriate level of expertise to perform observation and~~
6 ~~assessment or diagnosis and evaluation;~~

7 ~~(7) A) Residential observation and assessment services shall~~
8 ~~consist of, but not be limited to, those activities necessary to ensure~~
9 ~~appropriate recommendations for intervention, services, and placement of high~~
10 ~~risk juveniles.~~

11 ~~(B) Residential observation and assessment services may be~~
12 ~~performed by or at appropriate state operated facilities or by agreement with~~
13 ~~appropriate agencies or individuals deemed to have the appropriate level of~~
14 ~~expertise to perform residential observation and assessment or diagnosis and~~
15 ~~evaluation;~~

16 ~~(8) (A) (i) Community based alternative basic services shall~~
17 ~~consist of, but not be limited to, prevention, intervention, casework,~~
18 ~~treatment, counseling, observation and assessment, case management, and~~
19 ~~residential services.~~

20 ~~(ii) Primary goals for community based alternative~~
21 ~~basic services shall be the prevention of youths from entering the juvenile~~
22 ~~justice system and the provision of professional, community based, least cost~~
23 ~~services to youths.~~

24 ~~(B) These services shall be acquired by agreements with~~
25 ~~local community providers or other agencies or individuals deemed~~
26 ~~professionally capable and appropriate to deliver such services; and~~

27 ~~(9) (A) Expanded services may consist of, but not be limited to:~~

28 ~~(i) Expansion of existing programs;~~

29 ~~(ii) Specific programs for alcohol, drug, or sex~~
30 ~~offenders;~~

31 ~~(iii) Special therapeutic treatment programs or~~
32 ~~client specific services where a consistent population has been defined as in~~
33 ~~need of multidiscipline care and services; and~~

34 ~~(iv) Expansion of proven, effective, early~~
35 ~~intervention and prevention program activities.~~

36 ~~(B) Utilization of funds appropriated for expanded~~

1 ~~services shall be as directed by the Director of the Division of Youth~~
2 ~~Services.~~

3 ~~(c) The Division of Youth Services shall pursue the maximization of~~
4 ~~federal funds to benefit the youth of Arkansas.~~

5 ~~(d)(1) The Division of Youth Services shall promulgate rules and~~
6 ~~regulations as necessary to administer this subchapter.~~

7 ~~(2) The regulations shall be reviewed by the Senate Interim~~
8 ~~Committee on Children and Youth or any appropriate legislative committee~~
9 ~~during legislative sessions.~~

10

11 SECTION 23. Arkansas Code 9-28-204 is repealed.

12 ~~9-28-204. Observation and assessment center.~~

13 ~~(a) The Division of Youth Services shall establish and maintain~~
14 ~~observation and assessment center for the reception, orientation,~~
15 ~~classification, and adjustment evaluation of all youths committed to the~~
16 ~~Division of Youth Services.~~

17 ~~(b)(1) The staff of the center shall be provided by the Division of~~
18 ~~Youth Services or its designee.~~

19 ~~(2) The staff shall consist of such professional and clerical~~
20 ~~personnel as are necessary to perform the functions of the center as provided~~
21 ~~in this section.~~

22 ~~(c) The center shall be a secure facility and shall be equipped to~~
23 ~~hold committed youths for such period of time as necessary to provide for~~
24 ~~orientation, diagnosis, evaluation, and classification of a youth.~~

25

26 SECTION 24. Arkansas Code 9-28-205 is repealed.

27 ~~9-28-205. Youth services centers.~~

28 ~~(a) The physical facilities and programs at each of the youth services~~
29 ~~centers shall be designed and developed to be particularly suitable for the~~
30 ~~custody, care, education, and rehabilitation of youths of particular~~
31 ~~classifications.~~

32 ~~(b) In classifying and committing youths to the various centers and~~
33 ~~facilities, the Division of Youth Services shall take into consideration a~~
34 ~~youth's age, sex, physical condition, mental attitude and capacity, prognosis~~
35 ~~for rehabilitation, the seriousness of the committing offense, and such other~~
36 ~~criteria as the division shall determine.~~

1 ~~(c) The Director of the Division of Youth Services shall prepare or~~
2 ~~cause to be prepared courses of study, including regular or special courses~~
3 ~~in vocational skills suited to the age and capacity of the youths, and shall~~
4 ~~employ teachers to teach such courses.~~

5 ~~(d) The courses of study taught shall conform to the established~~
6 ~~guidelines for alternative learning environments or the minimum standards~~
7 ~~prescribed for the public schools of the state, and the students shall~~
8 ~~receive credit for courses completed in the alternative learning environment~~
9 ~~or the same credit for completing courses as students receive in public~~
10 ~~schools.~~

11 ~~(e) The youth services centers are declared to be educational~~
12 ~~institutions and entitled to all the rights and privileges of other~~
13 ~~accredited institutions of this state.~~

14
15 SECTION 25. Arkansas Code 9-28-206 is repealed.

16 ~~9-28-206. Disposition of delinquent juvenile.~~

17 ~~When a juvenile division of chancery court, a circuit court, or any~~
18 ~~other court having jurisdiction of a juvenile under eighteen (18) years of~~
19 ~~age, finds a juvenile to be delinquent or to have committed a crime as~~
20 ~~defined by the laws of this state, the court may commit the juvenile to the~~
21 ~~Division of Youth Services of the Department of Human Services for an~~
22 ~~indeterminate period, not to exceed the twenty-first birthday of the~~
23 ~~juvenile.~~

24
25 SECTION 26. Arkansas 9-28-207 is repealed.

26 ~~9-28-207. Commitment to the Division of Youth Services.~~

27 ~~(a) When any youth is committed to the Division of Youth Services as~~
28 ~~authorized in this section, the youth shall be under the exclusive care,~~
29 ~~custody, and control of the Division of Youth Services from the time of the~~
30 ~~lawful reception of the youth by a youth services center until the youth is~~
31 ~~released from the custody of the Division of Youth Services.~~

32 ~~(b) The fact that a youth has been committed to the Division of Youth~~
33 ~~Services shall not be received in evidence in any court in this state in any~~
34 ~~subsequent proceeding affecting the youth, except as otherwise provided by~~
35 ~~law.~~

36

1 SECTION 27. Arkansas 9-28-208 is repealed.

2 ~~9-28-208.—Order of commitment.~~

3 ~~(a) An order of commitment to the Division of Youth Services of the~~
4 ~~Department of Human Services shall state that the juvenile is found to be~~
5 ~~delinquent or to have committed a crime and shall state information regarding~~
6 ~~the underlying facts of the adjudication.~~

7 ~~(b)(1) A court shall, with a committing order, transmit to the~~
8 ~~Division of Youth Services a copy of the risk assessment instrument and a~~
9 ~~report on the juvenile, setting forth in detail all available pertinent~~
10 ~~information concerning the juvenile's background, family status, school~~
11 ~~record, behavioral tendencies, and all other pertinent information that it~~
12 ~~may have, including the reasons for the juvenile's commitment.~~

13 ~~(2) Information relating to the committing offense is~~
14 ~~exclusively for the benefit of the Division of Youth Services and shall not~~
15 ~~be disclosed by division officials or employees without written authorization~~
16 ~~of the committing court, except for data and statistical compilations as~~
17 ~~otherwise provided by law.~~

18 ~~(c) Except when an extended juvenile jurisdiction offender is~~
19 ~~committed to the Division of Youth Services, an order of commitment shall~~
20 ~~remain in effect for an indeterminate period, not exceeding two (2) years,~~
21 ~~subject to extension by the committing court for additional periods of one~~
22 ~~(1) year if the court finds an extension is necessary to safeguard the~~
23 ~~welfare of the juvenile or the interest of the public.~~

24 ~~(d) Commitment shall not exceed the twenty first birthday of a~~
25 ~~juvenile.~~

26 ~~(e) When an order of commitment includes recommendations for a~~
27 ~~specific type of placement, the Division of Youth Services shall consider~~
28 ~~those recommendations in making a placement.~~

29
30 SECTION 28. Arkansas Code 9-28-209 is repealed.

31 ~~9-28-209.—Commitment conditions and terms.~~

32 ~~(a)(1) Upon commitment to the Division of Youth Services, a youth~~
33 ~~shall be delivered to the observation and assessment center for orientation,~~
34 ~~classification, diagnosis, and evaluation.~~

35 ~~(2) Upon completion of such orientation, classification,~~
36 ~~diagnosis, and evaluation, the staff of the observation and assessment center~~

1 ~~shall make recommendations to the Director of the Division of Youth Services~~
2 ~~with respect to the placement of a youth.~~

3 ~~(b) Upon receipt of the recommendations, the Director of the Division~~
4 ~~of Youth Services shall determine whether a youth shall be placed in a youth~~
5 ~~services center or facility or any program operated by the Department of~~
6 ~~Human Services.~~

7 ~~(c)(1) If the Division of Youth Services determines that a youth shall~~
8 ~~be retained in any of the facilities or programs, it shall consider the~~
9 ~~youth's physical condition, mental attitude and capacity, prognosis for~~
10 ~~successful rehabilitation, and such other criteria as the division shall~~
11 ~~establish in order to place the youth in the most appropriate facility or~~
12 ~~program as determined by the division.~~

13 ~~(2) If the Division of Youth Services determines that a youth is~~
14 ~~not suited for placement in a youth services center or facility, it shall~~
15 ~~report its findings to the committing court along with information regarding~~
16 ~~the placement of the youth.~~

17 ~~(d) The Division of Youth Services has the authority to move a youth~~
18 ~~at any time within its system of youth services centers or facilities and~~
19 ~~community based programs or within the Department of Human Services' programs~~
20 ~~or facilities.~~

21
22 SECTION 29. Arkansas Code 9-28-210 is repealed.

23 ~~9-28-210. Release.~~

24 ~~(a)(1) In consideration of its juvenile correctional role, the~~
25 ~~Division of Youth Services of the Department of Human Services shall~~
26 ~~establish objective guidelines for length of stay when juveniles are~~
27 ~~committed to the division.~~

28 ~~(2) Except when an extended juvenile jurisdiction offender or a~~
29 ~~juvenile committed to the Division of Youth Services from circuit court is~~
30 ~~committed to the Division of Youth Services, length of stay determinations~~
31 ~~shall be the exclusive responsibility of the Division of Youth Services, and~~
32 ~~committed juveniles shall be reintegrated into society at a pace determined~~
33 ~~by the seriousness of the committing offense, aggravating or mitigating~~
34 ~~circumstances, community compatibility, and clinical prognosis.~~

35 ~~(3) When an extended juvenile jurisdiction offender has been~~
36 ~~committed to the Division of Youth Services, the committing court shall have~~

1 ~~sole release authority.~~

2 ~~(4)(A) Upon determination that the juvenile has been~~
3 ~~rehabilitated, the Division of Youth Services may petition the court for~~
4 ~~release.~~

5 ~~(B) The court shall conduct a hearing and shall consider~~
6 ~~the following factors in making its determination to release the juvenile~~
7 ~~from the Division of Youth Services:~~

8 ~~(i) The experience and character of the juvenile~~
9 ~~before and after the juvenile disposition, including compliance with the~~
10 ~~court's orders;~~

11 ~~(ii) The nature of the offense or offenses and the~~
12 ~~manner in which they were committed;~~

13 ~~(iii) The recommendations of the professionals who~~
14 ~~have worked with the juveniles;~~

15 ~~(iv) The protection of public safety; and~~
16 ~~opportunities provided to the juvenile for~~
17 ~~rehabilitation and the juvenile's efforts toward rehabilitation.~~

18 ~~(5) The court shall release the juvenile upon a finding by a~~
19 ~~preponderance of the evidence that the juvenile's release does not pose a~~
20 ~~substantial threat to public safety.~~

21 ~~(b) The Division of Youth Services shall establish policies regarding~~
22 ~~the eligibility of juveniles for release consideration.~~

23 ~~(c)(1) Whenever the Director of the Division of Youth Services, upon~~
24 ~~examination of all information and recommendations provided, shall determine~~
25 ~~that release of a juvenile is in the interest of both the state and the~~
26 ~~juvenile, the division shall grant release or petition the committing court~~
27 ~~for release if the juvenile is an extended juvenile jurisdiction offender.~~

28 ~~(2) Except when an extended jurisdiction offender is committed~~
29 ~~to the Division of Youth Services, release decisions shall be made by the~~
30 ~~Director of the Division of Youth Services without the necessity of an~~
31 ~~application by or on behalf of a juvenile.~~

32 ~~(3) In determining whether the release of a juvenile is in the~~
33 ~~best interest of both the state and the juvenile, the division shall consider~~
34 ~~the circumstances of the committing offense, any recommendations of the~~
35 ~~committing judge, any recommendations of the probation officer of the~~
36 ~~committing court, the juvenile's previous delinquency record, the~~

1 ~~availability of community programs, and the stability of the juvenile's home~~
2 ~~environment.~~

3 ~~(d)(1) The committing court may, at any time, recommend that a~~
4 ~~juvenile be released from the custody of the Division of Youth Services.~~

5 ~~(2) A recommendation for release shall be provided in writing to~~
6 ~~the Division of Youth Services stating the reasons release is deemed in the~~
7 ~~best interest of the juvenile and society.~~

8 ~~(3) Except when an extended juvenile jurisdiction offender is~~
9 ~~committed to the Division of Youth Services, a final decision to release~~
10 ~~shall be made by the Division of Youth Services.~~

11 ~~(e) Upon release from the custody of the Division of Youth Services, a~~
12 ~~juvenile shall remain under the jurisdiction of the committing court for an~~
13 ~~indeterminate period not to exceed two (2) years, except when an extended~~
14 ~~juvenile jurisdiction offender is committed to the Division of Youth~~
15 ~~Services.~~

16
17 SECTION 30. Arkansas Code 9-28-215 is repealed.

18 ~~9-28-215. Departure without authorization—Release of information.~~

19 ~~(a) When a juvenile departs without authorization from a youth~~
20 ~~services center or other facility operated by the Division of Youth Services~~
21 ~~for the care of delinquent juveniles, if at the time of departure the~~
22 ~~juvenile is committed or detained for an offense for which the juvenile could~~
23 ~~have been tried as an adult, the Director of Division of Youth Services shall~~
24 ~~release to the general public the name, age, and description of the juvenile~~
25 ~~and any other pertinent information the director deems necessary to aid in~~
26 ~~the apprehension of the juvenile and safeguard the public welfare.~~

27 ~~(b) When a juvenile departs without authorization from the Arkansas~~
28 ~~State Hospital, if at the time of departure the juvenile is committed as a~~
29 ~~result of an acquittal, for mental disease or defect, of an offense for which~~
30 ~~the juvenile could have been tried as an adult, the Director of the Division~~
31 ~~of Mental Health Services shall release to the general public the name, age,~~
32 ~~and description of the juvenile and any other pertinent information the~~
33 ~~director deems necessary to aid in the apprehension of the juvenile and~~
34 ~~safeguard the public welfare.~~

35 ~~(c) When a juvenile departs without authorization from a local~~
36 ~~juvenile detention facility, if at the time of departure the juvenile is~~

1 ~~committed or detained for an offense for which the juvenile could have been~~
 2 ~~tried as an adult, the director of the juvenile detention facility shall~~
 3 ~~release to the general public the name, age, and description of the juvenile~~
 4 ~~and any other pertinent information the director deems necessary to aid in~~
 5 ~~the apprehension of the juvenile and safeguard the public welfare.~~

6
 7 SECTION 31. Arkansas Code 9-28-216 is repealed.

8 ~~9-28-216. Separation of juvenile offenders—Regulations—Review.~~

9 ~~(a) The Division of Youth Services of the Department of Human Services~~
 10 ~~shall promulgate regulations to require the separation of juvenile offenders~~
 11 ~~committed to a facility operated by the division based upon:~~

12 ~~(1) The age of the juvenile offender;~~

13 ~~(2) The seriousness of the crime or crimes committed by the~~
 14 ~~juvenile offender; or~~

15 ~~(3) Whether the juvenile offender has been adjudicated~~
 16 ~~delinquent of a sex offense as defined under §12-12-903(a)(12).~~

17 ~~(b) No regulation pertaining to the separation of juvenile offenders~~
 18 ~~promulgated hereafter by the division shall be effective until reviewed by~~
 19 ~~the Legislative Council, the House Interim Committee on Aging, Children and~~
 20 ~~Youth, Legislative and Military Affairs, and the Senate Interim Committee on~~
 21 ~~Children and Youth, or appropriate subcommittees thereof, of the General~~
 22 ~~Assembly.~~

23
 24 SECTION 32. Arkansas Code 9-28-301 is repealed.

25 ~~9-28-301. Inspections—Timing—Report—Audit.~~

26 ~~(a) In order to assure that juveniles committed to facilities operated~~
 27 ~~by or under contract with the Division of Youth Services of the Department of~~
 28 ~~Human Services are not subject to unsafe and unsanitary living conditions,~~
 29 ~~the Director of the Department of Health or a duly authorized agent is~~
 30 ~~authorized to enter the controlled premises and conduct random and~~
 31 ~~unannounced health inspections of the facilities.~~

32 ~~(b) Inspections shall include, but shall not be limited to, those~~
 33 ~~inspections provided for in the current Standards for Juvenile Training~~
 34 ~~Schools published by the American Correction Association in cooperation with~~
 35 ~~the Commission on Accreditation for Corrections.~~

36 ~~(c) The inspections, while random, shall be performed at least two (2)~~

1 ~~times per calendar year with specific follow-up inspections by the Department~~
2 ~~of Health to monitor deficiencies and corrections as determined by the~~
3 ~~Department of Health.~~

4 ~~(d) The Department of Human Services shall adopt the current Standards~~
5 ~~for Juvenile Training Schools published by the American Correction~~
6 ~~Association in cooperation with the Commission on Accreditation for~~
7 ~~Corrections as it relates to health concerns.~~

8 ~~(e)(1) The Director of the Department of Health shall present a list~~
9 ~~of findings of the random health inspections to the House Interim Committee~~
10 ~~on Aging, Children, and Youth, Legislative and Military Affairs Committee and~~
11 ~~the Senate Interim Committee on Children and Youth within one (1) month after~~
12 ~~completing the random health inspections.~~

13 ~~(2)(A) In the event the General Assembly is in session, the~~
14 ~~director shall provide the report to the House Aging, Children, and Youth,~~
15 ~~Legislative and Military Affairs Committee and the chairperson of the Senate~~
16 ~~Interim Committee on Children and Youth.~~

17 ~~(B) The complete report, including, but not limited to,~~
18 ~~statistics, shall be made available to the public.~~

19 ~~(f)(1) The Director of the Department of Human Services or the~~
20 ~~Division of Youth Services of the Department of Human Services shall file the~~
21 ~~report, along with a response not to exceed two (2) pages, to the House~~
22 ~~Interim Committee on Aging, Children, and Youth, Legislative and Military~~
23 ~~Affairs Committee and the Senate Interim Committee o Children and Youth~~
24 ~~within thirty (30) days after receiving an inspection report prepared by the~~
25 ~~Department of Health.~~

26 ~~(2) In the event the General Assembly is in session, the~~
27 ~~director shall provide the response to the House Aging, Children, and Youth,~~
28 ~~Legislative and Military Affairs Committee and the chairperson of the Senate~~
29 ~~Interim Committee on Children and Youth.~~

30 ~~(3) The response shall include a plan of correction and suggest~~
31 ~~a means by which the Department of Human Services or the Division of Youth~~
32 ~~Services will correct any deficiencies within thirty (30) days of the filing~~
33 ~~of the report or within the time frame determined by the Department of Health~~
34 ~~to ensure the health and safety of the juveniles housed at the facility.~~

35 ~~(g)(1) The Department of Human Services or the Division of Youth~~
36 ~~Services shall develop an internal audit and review to evaluate and monitor~~

1 ~~all Division of Youth Services facilities.~~

2 ~~(2) The Arkansas Department of Health will cooperate in training~~
3 ~~or assisting the Department of Human Services or the Division of Youth~~
4 ~~Services in developing the process as it relates to health concerns.~~

5 ~~(3) Included in its quarterly performance reports, the~~
6 ~~Department of Human Services or the Division of Youth Services shall report~~
7 ~~on its progress to the House Interim Committee on Aging, Children, and Youth,~~
8 ~~Legislative and Military Affairs and the Senate Interim Committee on Children~~
9 ~~and Youth.~~

10 ~~(4) In the event the General Assembly is in session, the~~
11 ~~director shall provide the report to the House Aging, Children, and Youth,~~
12 ~~Legislative and Military Affairs Committee and the chairperson of the Senate~~
13 ~~Interim Committee on Children and Youth.~~

14 ~~(h) The Director of the Department of Human Services shall be required~~
15 ~~to close any facility when deficiencies are deemed by the Department of~~
16 ~~Health to be a danger to the health or safety of juveniles housed at such~~
17 ~~facility.~~

18 ~~(i) The Department of Human Services shall reimburse all expenses and~~
19 ~~costs to the Department of Health necessary to carry out the provisions of~~
20 ~~this subchapter.~~

21 ~~(j) Those facilities operated under contract with the Division of~~
22 ~~Youth Services of the Department of Human Services which are required to be~~
23 ~~inspected by another provision of state or federal law shall not be subject~~
24 ~~to the provisions of this subchapter.~~

25
26 SECTION 33. Arkansas Code 9-28-302 is repealed.

27 ~~9-28-302. Security inspections.~~

28 ~~(a)(1) In order to assure that citizens of the State of Arkansas, the~~
29 ~~juveniles committed to facilities operated by or under contract with the~~
30 ~~Division of Youth Services of the Department of Human Services, and the~~
31 ~~employees of the facilities are protected from injury and harm, the Director~~
32 ~~of the Department of Correction or a duly authorized agent is authorized to~~
33 ~~enter the controlled premises and conduct random and unannounced security~~
34 ~~inspections of the facilities.~~

35 ~~(2) The inspection shall include, but is not limited to, a~~
36 ~~review of:~~

1 ~~(A) The security measures in place to prevent escapes by~~
2 ~~the juveniles;~~

3 ~~(B) The security measures in place to prevent unauthorized~~
4 ~~persons from entering the facilities; and~~

5 ~~(C) The use of force by employees of the facilities.~~

6 ~~(b) Inspections shall include, but shall not be limited to, those~~
7 ~~standards as provided for in the current Standards for Juvenile Training~~
8 ~~Schools published by the American Correction Association in cooperation with~~
9 ~~the Commission on Accreditation for Corrections.~~

10 ~~(c) The inspections, while random, shall be performed at least one (1)~~
11 ~~time per calendar year with specific follow up inspections by the Department~~
12 ~~of Correction to monitor deficiencies and corrections as determined by the~~
13 ~~Department of Correction.~~

14 ~~(d) On or before July 30, 1999, the Department of Human Services shall~~
15 ~~adopt the current Standards for Juvenile Training Schools published by the~~
16 ~~American Correction Association in cooperation with the Commission on~~
17 ~~Accreditation for Corrections as it relates to safety concerns.~~

18 ~~(e)(1) The Director of the Department of Correction shall present a~~
19 ~~list of findings of the random security inspections to the House Interim~~
20 ~~Committee on Aging, Children, and Youth, Legislative and Military Affairs~~
21 ~~Committee and the Senate Interim Committee on Children and Youth within one~~
22 ~~(1) month after conducting the random security inspections.~~

23 ~~(2) In the event the General Assembly is in session, the~~
24 ~~director shall provide the report to the House Aging, Children, and Youth,~~
25 ~~Legislative and Military Affairs Committee and the chairperson of the Senate~~
26 ~~Interim Committee on Children and Youth.~~

27 ~~(3) The complete report including, but not limited to,~~
28 ~~statistics shall be made available to the public.~~

29 ~~(f)(1) The Director of the Department of Human Services or the~~
30 ~~Division of Youth Services shall file the report, along with a response not~~
31 ~~to exceed two (2) pages, to the House Interim Committee on Aging, Children,~~
32 ~~and Youth, Legislative and Military Affairs and the Senate Interim Committee~~
33 ~~on Children and Youth within thirty (30) days of receiving an inspection~~
34 ~~report prepared by the Department of Correction.~~

35 ~~(2) In the event the General Assembly is in session, the~~
36 ~~director shall provide the report to the House Aging, Children, and Youth,~~

1 ~~Legislative and Military Affairs Committee and the chairperson of the Senate~~
2 ~~Interim Committee on Children and Youth.~~

3 ~~(3) The response shall include a plan of correction and suggest~~
4 ~~a means by which the Department of Human Services or the Division of Youth~~
5 ~~Services will correct any deficiencies within thirty (30) days of the filing~~
6 ~~of the report or within the time frame determined by the Department of~~
7 ~~Correction to ensure the health and safety of the juveniles housed at the~~
8 ~~facility.~~

9 ~~(g)(1) The Department of Human Services or the Division of Youth~~
10 ~~Services shall develop an internal audit and review to evaluate and monitor~~
11 ~~all Division of Youth Services facilities.~~

12 ~~(2) The Arkansas Department of Correction will cooperate in~~
13 ~~training or assisting the Department of Human Services or the Division of~~
14 ~~Youth Services in developing this process as it related to security concerns.~~

15 ~~(3)(A) In its quarterly performance reports, the Department of~~
16 ~~Human Services or the Division of Youth Services shall report on its progress~~
17 ~~to the House Interim Committee on Aging, Children, and Youth, Legislative and~~
18 ~~Military Affairs and the Senate Interim Committee on Children and Youth.~~

19 ~~(B) In the event the General Assembly is in session, the~~
20 ~~director shall provide the report to the House Aging, Children, and Youth,~~
21 ~~Legislative and Military Affairs Committee and the chairperson of the Senate~~
22 ~~Interim Committee on Children and Youth.~~

23 ~~(h) The Director of the Department of Human Services shall be required~~
24 ~~to close any facility when deficiencies are deemed by the Department of~~
25 ~~Correction to be a danger to the health or safety of juveniles housed at such~~
26 ~~facility.~~

27 ~~(i) The Department of Human Services shall reimburse all expenses and~~
28 ~~costs to the Department of Correction necessary to carry out the provisions~~
29 ~~of this subchapter.~~

30 ~~(j) Those facilities operated under contract with the Division of~~
31 ~~Youth Services of the Department of Human Services which are required to be~~
32 ~~inspected by another provision of state or federal law shall not be subject~~
33 ~~to the provisions of this subchapter.~~

34
35 SECTION 34. Arkansas Code 9-28-801 is repealed.

36 ~~9-28-801. Facility to house older juvenile offenders established.~~

1 ~~(a) The Division of Youth Services of the Department of Human Services~~
2 ~~shall establish a separate facility to house offenders between the ages of~~
3 ~~eighteen (18) and twenty one (21) who have been committed to the Division of~~
4 ~~Youth Services.~~

5 ~~(b) This facility shall be in operation by July 1, 2000 and shall be~~
6 ~~contingent upon funding.~~

7
8 SECTION 35. Arkansas Code 9-27-349 is repealed.

9 ~~9-27-349. Compliance with federal acts.~~

10 ~~The Division of Children and Family Services of the Department of Human~~
11 ~~Services shall have the responsibility for the collection, review, and~~
12 ~~reporting of statistical information on detained or incarcerated juveniles,~~
13 ~~for adult jails, adult lockups, and juvenile detention facilities to assure~~
14 ~~compliance with the provisions of P.L. 93-415, the Juvenile Justice and~~
15 ~~Delinquency Prevention Act of 1974.~~

16
17 SECTION 36. Arkansas Code 9-28-701 is repealed.

18 ~~9-28-701 Legislative findings.~~

19 ~~(a) Presently juvenile judges must often choose between imposing no~~
20 ~~sanction at all or committing juveniles to the Division of Youth Services.~~
21 ~~Judges should have punitive options available as alternatives to confinement.~~
22 ~~Therefore, it is the intent of the General Assembly that a continuum of~~
23 ~~graduated sanctions be available in every judicial district in Arkansas and~~
24 ~~that the Division of Youth Services provide for a continuum of sanctions that~~
25 ~~may be imposed in the community in lieu of commitment to the Division of~~
26 ~~Youth Services in every situation.~~

27 ~~(b) Further, the General Assembly recognizes that sanctions are~~
28 ~~usually not effective unless the sanctions are coupled with treatment and~~
29 ~~intervention services which address the underlying problems of the youth and~~
30 ~~his family. It is for this reason the General Assembly has provided that the~~
31 ~~community based sanctions program be implemented by the Division of Youth~~
32 ~~Services, as part of their community based provider contracts; and that any~~
33 ~~and all funds specifically appropriated to implement this subchapter are in~~
34 ~~addition to those funds provided for other prevention intervention,~~
35 ~~therapeutic, and family services, and shall be added to existing community~~
36 ~~based contracts without further request for proposal, but must be spent~~

1 ~~exclusively to implement and support community based sanctions.~~

2

3 SECTION 37. Arkansas Code 9-28-702 is repealed.

4 ~~9-28-702. Sanctions—Use and availability.~~

5 ~~(a) The Division of Youth Services shall ensure that each judicial~~
6 ~~district has a continuum of sanctions available through their contracts with~~
7 ~~community based providers. The sanctions may include, but are not limited~~
8 ~~to, the following:~~

9 ~~(1) House arrest as enforced by electronic monitoring or~~
10 ~~intensive supervision;~~

11 ~~(2) Restitution;~~

12 ~~(3) Community service;~~

13 ~~(4) Short term detention in either a staffed or physically~~
14 ~~secure facility provided by the community based provider or other licensed~~
15 ~~subcontractor;~~

16 ~~(5) Mandatory parental participation in either therapeutic or~~
17 ~~sanction programs enforced, if necessary by contempt sanctions.~~

18 ~~(b) The Director of the Division of Youth Services shall ensure that~~
19 ~~criteria are established to ensure the maximum use of resources, in each~~
20 ~~judicial district, to make this program available to as many juveniles as~~
21 ~~possible. To the extent resources are available, a community based sanctions~~
22 ~~may be used for the following juvenile offenders and circumstances:~~

23 ~~(1) Offenses not involving violence;~~

24 ~~(2) Failure to comply with the terms of the aftercare plan;~~

25 ~~(3) Contempt of court for failure to comply with any valid court~~
26 ~~order;~~

27 ~~(4) Revocation of probation.~~

28 ~~(c) Nothing in this section requires the Division of Youth Services to~~
29 ~~provide all the sanctions listed in this section, but simply to ensure that~~
30 ~~each judicial district has in place a continuum of graduated community based~~
31 ~~sanctions and that those sanctions are available for as many juvenile~~
32 ~~offenders as possible.~~

33 ~~(d) The Division of Youth Services shall add to the community based~~
34 ~~provider contracts without further request for proposals, any and all funds~~
35 ~~specifically appropriated to implement this subchapter and shall ensure that~~
36 ~~those funds are spent exclusively to implement and support community based~~

1 ~~sanction programs.~~

2
3 SECTION 38. Arkansas Code 9-28-703 is repealed.

4 ~~9-28-703. Sanctions Position.~~

5 ~~(a) The Division of Youth Services may impose any community based~~
6 ~~sanction on a juvenile in their custody or who is in aftercare as a result of~~
7 ~~having been committed.~~

8 ~~(b) The court may impose community based sanctions as an original~~
9 ~~disposition, revocation of probation, or as a contempt sanction.~~

10 ~~(c) The community based provider may not independently impose the~~
11 ~~community based sanctions.~~

12
13 SECTION 39. EMERGENCY CLAUSE. It is found and determined by the
14 General Assembly of the State of Arkansas that the law is confusing
15 concerning the authority that the Division of Youth Services has to recommi t
16 juveniles within its system prior to discharge, and the authority that the
17 Division of Youth Services has to order the pickup of a juvenile for
18 violating the conditions of aftercare and recommitting that juvenile to
19 secure custody without obtaining a court order. Therefore, an emergency is
20 declared to exist and this act being immediately necessary for the
21 preservation of the public peace, health and safety shall become effective on
22 the date of its approval by the Governor. If the bill is neither approved
23 nor vetoed by the Governor, it shall become effective on the expiration of
24 the period of time during which the Governor may veto the bill. If the bill
25 is vetoed by the Governor and the veto is overridden, it shall become
26 effective on the date the last house overrides the veto.

27
28 /s/ Everett