

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 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: S3/24/03

A Bill

SENATE BILL 720

5 By: Senators J. Bookout, Capps, Glover, *Critcher*
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE PRISON OVERCROWDING EMERGENCY
10 POWERS ACT; AND FOR OTHER PURPOSES.
11

Subtitle

12 AN ACT TO AMEND THE PRISON OVERCROWDING
13 EMERGENCY POWERS ACT.
14
15
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 *SECTION 1. Arkansas Code § 12-28-602 is amended to read as follows:*
20 *12-28-602. Definitions.*

21 *As used in this subchapter, unless the context otherwise requires:*

22 (1) *"Board" means the Board of ~~Correction and Community~~*
23 *~~Punishment~~ Corrections;*

24 (2) *"Prison" means a correctional facility operated by the*
25 *Department of Correction under the supervision and direction of the board;*

26 (3) *"Prison system" means the prison facilities of the*
27 *Department of Correction; ~~and~~*

28 (4) *"Rated capacity" means the actual available bed space in the*
29 *prison system as certified by the board, subject to applicable federal and*
30 *state laws and the rules and regulations adopted pursuant to those laws; and*

31 (5) *"County backlog" means those inmates sentenced to the*
32 *Arkansas Department of Correction that are being housed in the county jails*
33 *until space is available in the prison.*
34

35 *SECTION 2. Arkansas Code § 12-28-603 is amended to read as follows:*
36 *12-28-603. Declaration of emergency.*



1 (a)(1) Whenever the population of the prison system exceeds ninety-
2 eight percent (98%) of the rated capacity for thirty (30) consecutive days,
3 or whenever the number of inmates on the county jail backlog exceeds five
4 hundred (500) inmates, the board may declare a prison overcrowding state of
5 emergency.

6 (2) In making any emergency request, based on exceeding the
7 ninety-eight percent (98%) capacity, the board shall certify the rated
8 capacity and current population of the prison system and shall further
9 certify that all authorized actions consistent with applicable state laws and
10 regulations have been exhausted in an attempt to reduce the prison population
11 to ninety-eight percent (98%) of the rated capacity.

12 (3) In making any emergency request based on a county jail
13 backlog exceeding five hundred (500) inmates, the board shall certify the
14 list of persons on the county jail backlog and shall further certify that all
15 authorized actions consistent with applicable state laws and regulations have
16 been exhausted in an attempt to reduce the county jail backlog to five
17 hundred (500) inmates.

18 (b) The board is hereby authorized to invoke this subchapter
19 separately for those facilities housing either male or female inmate
20 populations, provided all other requirements of this subchapter are met.
21

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

23 12-28-604. List of inmates - Early parole or discharge.

24 (a)(1) When the board declares a prison overcrowding state of
25 emergency due to exceeding ninety-eight percent (98%) of the rated capacity
26 and notifies the Director of the Department of Correction of the emergency as
27 authorized, the director shall certify to the board a list of those inmates
28 who are Class I and Class II, and the director shall indicate which inmates
29 he recommends.

30 (2) The listed inmates shall be those who, if authorized, would
31 have their parole eligibility, transfer eligibility, or minimum release dates
32 moved up to a point where they would immediately be eligible for parole,
33 transfer, or discharge.

34 ~~(b)~~(3) Upon receipt of the list of inmates certified by the
35 director, the board is authorized to move up the projected parole
36 eligibility, transfer eligibility, or minimum release dates of any or all

1 inmates on the list by up to ninety (90) days.

2 ~~(e)(4)~~ The board shall certify to the director a list of the
3 names of all prisoners whose projected parole eligibility, transfer
4 eligibility, or minimum release dates are affected pursuant to the provisions
5 of this subchapter.

6 (b)(1) When the board declares a prison overcrowding state of
7 emergency due to the county jail backlog exceeding five hundred (500) inmates
8 and notifies the Director of the Department of Correction of the emergency as
9 authorized, the director shall certify to the board a list of those inmates
10 who are in Class I or Class II status and are serving a sentence for a
11 nonviolent offense as established by the Board of Corrections and the
12 director shall indicate which inmates he or she recommends.

13 (2) The listed inmates shall be those who, if authorized, would
14 have their parole eligibility, transfer eligibility, or discharge dates moved
15 up to a point where they would immediately be eligible for parole, transfer,
16 or discharge.

17 (3) Upon the receipt of the list of inmates certified by the
18 director, the board is authorized to move up the projected parole
19 eligibility, transfer eligibility, or discharge dates of any or all inmates
20 on the list by up to one (1) year.

21 (4) The board shall certify to the director a list of the names
22 of all prisoners whose projected parole eligibility, transfer eligibility, or
23 discharge dates are affected pursuant to the provisions of this subchapter.

24
25 SECTION 4. Arkansas Code § 12-28-605(a) is amended to read as follows:

26 (a) The board may declare succeeding prison overcrowding states of
27 emergency at any time when the prison population exceeds ninety-eight percent
28 (98%) of the rated capacity of the system, but these successive states of
29 emergency shall not be declared more often than once each ninety (90) days or
30 at any time the county jail backlog exceeds five hundred (500) inmates.

31
32 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the
33 General Assembly of the State of Arkansas that overcrowding in the state
34 prisons must be addressed immediately; that this act does so; and that this
35 act must go into effect as soon as possible in order to help assure that our
36 citizens are protected from the dangerous elements of society. Therefore, an

1 emergency is declared to exist and this act being immediately necessary for
2 the preservation of the public peace, health, and safety shall become
3 effective on:

4 (1) The date of its approval by the Governor;

5 (2) If the bill is neither approved nor vetoed by the Governor,
6 the expiration of the period of time during which the Governor may veto the
7 bill; or

8 (3) If the bill is vetoed by the Governor and the veto is
9 overridden, the date the last house overrides the veto.

10
11
12
13
14
15
16
17

/s/ J. Bookout