

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 85th General Assembly  
3 Regular Session, 2005  
4

# A Bill

HOUSE BILL 1482

5 By: Representative S. Prater  
6  
7

## For An Act To Be Entitled

9 AN ACT TO REPEAL OBSOLETE LAWS CONCERNING THE  
10 PREVENTION OF PUBLIC OFFENSES; AND FOR OTHER  
11 PURPOSES.  
12

## Subtitle

13 AN ACT TO REPEAL OBSOLETE LAWS  
14 CONCERNING THE PREVENTION OF PUBLIC  
15 OFFENSES.  
16  
17  
18

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

21 SECTION 1. Arkansas Code Title 12, Chapter 11 is repealed.

22 ~~Chapter 11. — Prevention of Public Offenses.~~

23 ~~12-11-101. Preventive measures.~~

24 ~~The commission of public offenses may be prevented by proceedings:~~

25 ~~(1) For suppressing riots and resistance to lawful authority;~~

26 ~~(2) For requiring security to keep the peace or for good~~

27 ~~behavior; and~~

28 ~~(3) For arresting and confining insane, drunken, and disorderly~~

29 ~~persons.~~  
30

31 ~~12-11-102. Unlawful assembly of twenty or more persons.~~

32 ~~(a) When persons to the number of twenty (20) or more are unlawfully~~  
33 ~~or riotously assembled in a city or town, the sheriff of the county, his or~~  
34 ~~her deputies, and the other peace officers and magistrates of the city or~~  
35 ~~town, together with the mayor or other chief officer of the city or town,~~  
36 ~~must go among the persons assembled or as near them as possible and in the~~



1 ~~name of the state command them to disperse.~~

2 ~~(b) If the persons assembled do not immediately disperse, the~~  
 3 ~~magistrates and officers must arrest them or cause them to be arrested so~~  
 4 ~~that they may be punished according to law, and the magistrates and officers~~  
 5 ~~may command to their aid all persons present or in the county.~~

6 ~~(c) If the persons commanded to aid the magistrates and officers~~  
 7 ~~neglect to do so without just cause, they shall be treated as a part of the~~  
 8 ~~rioters and punished accordingly.~~

9 ~~(d) If a magistrate or officer named in this section, having notice of~~  
 10 ~~an unlawful or riotous assembly, neglects to proceed to the place of~~  
 11 ~~assembly, or as near as he or she can with safety, and exercise the authority~~  
 12 ~~invested in him or her to suppress the assembly and arrest the offenders,~~  
 13 ~~then the magistrate or officer is guilty of a misdemeanor.~~

14  
 15 ~~12-11-103. Unlawful assembly of three or more persons.~~

16 ~~(a) When three (3) or more persons shall be riotously, unlawfully, or~~  
 17 ~~tumultuously assembled, it shall be the duty of any judge, justice of the~~  
 18 ~~peace, sheriff, coroner, or constable who shall have knowledge or be informed~~  
 19 ~~thereof to make a proclamation among the persons so assembled, or as near~~  
 20 ~~them as he or she can safely come, charging and commanding them immediately~~  
 21 ~~to disperse themselves and peaceably to depart to their habitations or lawful~~  
 22 ~~business.~~

23 ~~(b) If upon the proclamation being made, the persons so assembled~~  
 24 ~~shall not immediately disperse and depart as commanded or if they shall~~  
 25 ~~resist the officer or prevent the making of the proclamation, then the~~  
 26 ~~officer shall command those present, and the power of the county if~~  
 27 ~~necessary, and shall disperse the unlawful assembly, arrest the offenders,~~  
 28 ~~and take them before some judicial officer, to be dealt with according to~~  
 29 ~~law.~~

30  
 31 ~~12-11-104. Resistance to authority.~~

32 ~~(a) When a sheriff or other public officer authorized to execute~~  
 33 ~~process finds or has reason to believe that resistance will be made to the~~  
 34 ~~execution of the process, he or she may command as many male inhabitants of~~  
 35 ~~his or her county as he or she may think proper, and any military companies~~  
 36 ~~in his or her county, armed and equipped, to assist him or her in overcoming~~

1 ~~the resistance and in arresting and confining the resisters and their aiders~~  
 2 ~~and abettors, to be punished according to law.~~

3 ~~(b) The officer must report to the court from which the process issued~~  
 4 ~~the names of the resisters and their aiders and abettors so that they may be~~  
 5 ~~punished for contempt.~~

6 ~~(c) Every person commanded by a public officer to assist him or her in~~  
 7 ~~the execution of process, who without lawful cause refuses or neglects to~~  
 8 ~~obey the command, is guilty of a misdemeanor and contempt of the court from~~  
 9 ~~which the process issued.~~

10  
 11 ~~12-11-106. Discharge or further requirement of security.~~

12 ~~(a)(1) Upon the defendant appearing, the court shall examine the case,~~  
 13 ~~and either discharge the defendant or require security to keep the peace or~~  
 14 ~~for his or her good behavior for a period not exceeding one (1) year. In~~  
 15 ~~default of giving security, the court may commit the defendant to jail for a~~  
 16 ~~period to be fixed by the court, not exceeding three (3) months, unless he or~~  
 17 ~~she shall in the meantime give security.~~

18 ~~(2) Where a defendant is committed to jail for failure to give~~  
 19 ~~security as provided in subdivision (a)(1) of this section, the cause of~~  
 20 ~~commitment and the sum in which he or she is required to give security shall~~  
 21 ~~be stated in the written order of commitment, which shall be delivered to the~~  
 22 ~~jailer.~~

23 ~~(b) Where the proceedings are taken upon the complaint of the person~~  
 24 ~~threatened and the complainant fails to appear before the court or~~  
 25 ~~magistrate, the defendant shall be discharged.~~

26 ~~(c) Unless the court or magistrate is satisfied that there are~~  
 27 ~~reasonable grounds for believing that the defendant will commit an offense~~  
 28 ~~against the person or property of another, commit violence endangering human~~  
 29 ~~life, or an offense amounting to a felony, the defendant shall be discharged.~~

30  
 31 ~~12-11-107. Security by recognizance.~~

32 ~~Where the security required in §§ 12-11-106—12-11-109 is given in~~  
 33 ~~court, it may be by a recognizance entered into in open court and entered~~  
 34 ~~upon the records by the clerk.~~

35  
 36 ~~12-11-108. Security after commitment.~~

1           ~~Any magistrate or probate judge may take the security required by §§~~  
 2 ~~12-11-106—12-11-109 of a defendant committed to jail for default of giving~~  
 3 ~~such security.~~

4  
 5           ~~12-11-109. Breaches of bond.~~

6           ~~(a) The following are the breaches of the bond required in §§ 12-11-~~  
 7 ~~106—12-11-108 and this section:~~

8                     ~~(1) The failure of the defendant to appear in the circuit court,~~  
 9 ~~where the bond requires such appearance, or departing therefrom before he or~~  
 10 ~~she is lawfully discharged;~~

11                    ~~(2) A judicial conviction of the defendant of an offense~~  
 12 ~~involving a breach of the peace within the period specified in the bond;~~

13                    ~~(3) A judicial conviction of the defendant of a felony within~~  
 14 ~~the time specified in the bond, where the bond is for his or her good~~  
 15 ~~behavior.~~

16           ~~(b) The prosecuting attorney may proceed by action, in the name of the~~  
 17 ~~state, against the defendant and his or her security, upon a breach of the~~  
 18 ~~bond.~~

19  
 20           ~~12-11-110. Drunken, insane, and disorderly persons.~~

21           ~~(a) It shall be the duty of all peace officers to arrest any insane or~~  
 22 ~~drunken person, whom they may find at large and not in the care of some~~  
 23 ~~discreet person, and take him or her before some magistrate of the county,~~  
 24 ~~city, or town in which the arrest is made.~~

25           ~~(b) It shall also be the duty of all peace officers to arrest any~~  
 26 ~~disorderly person, whom they may find creating a disturbance by noise or~~  
 27 ~~other disorder, and take him or her before some magistrate of the county,~~  
 28 ~~town, or city in which the arrest is made.~~

29           ~~(c)(1) If the arrests authorized in subsections (a) and (b) of this~~  
 30 ~~section are made during the night, the officer shall keep those arrested in~~  
 31 ~~confinement until the next morning.~~

32                    ~~(2) In the case of an insane or drunken person, the officer may~~  
 33 ~~deliver him or her into the custody of some discreet person who will~~  
 34 ~~undertake to restrain and take care of him.~~

35                    ~~(3) If the arrests are made in the local jurisdiction of a city~~  
 36 ~~court, the person arrested shall be taken before the judge of such court~~

1 ~~unless he or she is absent.~~

2 ~~(d)(1) Upon a drunken person being brought before a magistrate, the~~  
3 ~~magistrate shall have the power to order the person to be confined until he~~  
4 ~~or she becomes sober.~~

5 ~~(2) Upon a disorderly person being brought before a magistrate,~~  
6 ~~the magistrate may require of him or her surety for his or her good behavior,~~  
7 ~~and for keeping the peace for a period not exceeding one (1) year. On the~~  
8 ~~failure of the disorderly person to give such security, the magistrate may~~  
9 ~~commit him or her until he or she gives security, but in no event is the~~  
10 ~~confinement to exceed thirty (30) days.~~

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36