

1 State of Arkansas
2 91st General Assembly
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4

A Bill

SENATE BILL 136

5 By: Senator J. Hutchinson
6 By: Representatives Shepherd, Tucker
7

For An Act To Be Entitled

9 AN ACT TO BE KNOWN AS THE CRIMINAL JUSTICE EFFICIENCY
10 AND SAFETY ACT OF 2017; TO INCREASE THE EFFECTIVENESS
11 OF MONITORING PROBATIONERS AND PAROLEES BY THE
12 DEPARTMENT OF COMMUNITY CORRECTION; TO PROMOTE
13 EFFICIENT STAFFING BY THE DEPARTMENT OF COMMUNITY
14 CORRECTION; TO ESTABLISH MORE EFFICIENT AND EFFECTIVE
15 PUNISHMENT FOR PAROLEES AND PROBATIONERS WHO VIOLATE
16 THE TERMS AND CONDITIONS OF PAROLE OR PROBATION; TO
17 CREATE A LEGAL PATHWAY TO CHALLENGE A DEVIATION FROM
18 THE PRESUMPTIVE SENTENCING STANDARDS; TO PROVIDE FOR
19 THE ELECTRONIC COLLECTION OF DATA TO BE USED BY LAW
20 ENFORCEMENT AGENCIES; CONCERNING THE METHODS AND
21 PROCEDURES USED BY LAW ENFORCEMENT, JAIL PERSONNEL,
22 AND MENTAL HEALTH SERVICE PROVIDERS AND PROFESSIONALS
23 USED IN ENGAGING AN INDIVIDUAL WITH A MENTAL HEALTH
24 IMPAIRMENT; TO PROMOTE ALL LAW ENFORCEMENT OFFICERS
25 TO COMPLETE CONTINUED EDUCATION AND TRAINING IN
26 MENTAL HEALTH CRISIS INTERVENTION AND CRISIS
27 INTERVENTION PROTOCOL; TO CREATE THE BEHAVIORAL
28 HEALTH CRISIS INTERVENTION PROTOCOL ACT OF 2017; TO
29 REPEAL SECTIONS OF THE ARKANSAS CODE SUPERSEDED BY
30 THE COMMITMENT AND TREATMENT PROCESS UNDER § 20-47-
31 201 ET SEQ.; AND FOR OTHER PURPOSES.
32
33

Subtitle

35 TO CREATE THE CRIMINAL JUSTICE EFFICIENCY
36 AND SAFETY ACT OF 2017.



1
2
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
4

5 SECTION 1. Arkansas Code § 5-4-312 is amended to read as follows:

6 5-4-312. Presentence investigation – Placement in a community
7 correction program.

8 (a)(1) A court may require that either a presentence investigation be
9 conducted by either the probation officer or presentence investigation
10 officer assigned to the court or that the defense counsel of a defendant, the
11 prosecuting attorney, a probation officer, and other persons whom the court
12 believes have information relevant to the sentencing of the defendant submit
13 to the court the information in writing prior to sentencing.

14 (2) The presentence investigation or information submitted by
15 the persons described in subdivision (a)(1) of this section shall be
16 forwarded with the commitment order to the circuit clerk and retained in the
17 defendant's case file.

18 (b) Upon a preliminary determination by a court that a defendant is an
19 eligible offender and that placement in a community correction program under
20 § 16-93-1201 et seq. is proper, the court may:

21 (1)(A) Suspend the imposition of the sentence or place the
22 defendant on probation, under §§ 5-4-104, 5-4-201 et seq., 5-4-301 – 5-4-307,
23 and 16-93-314.

24 (B) A sentence under subdivision (b)(1)(A) of this section
25 may be accompanied by assignment to a community correction program under §
26 16-93-1201 et seq. for a designated period of time commensurate with the
27 goals of the community correction program assignment and the rules
28 established by the Board of Corrections for the operation of community
29 correction programs.

30 (C) The court shall maintain jurisdiction over the
31 defendant sentenced under subdivision (b)(1)(A) of this section with
32 supervision outside the confines of the specific programming provided by
33 probation officers assigned to the court.

34 (D)(i) If a person sentenced under subdivision (b)(1)(A)
35 of this section violates any term or condition of his or her sentence or term
36 of probation, revocation of the sentence or term of probation shall be

1 consistent with the procedures established by law for the revocation of
2 suspended imposition of sentence or probation.

3 (ii) Upon revocation as described in subdivision
4 (b)(1)(D)(i) of this section, the court shall determine whether the defendant
5 shall remain under the jurisdiction of the court and be assigned to a more
6 restrictive community correction program, facility, or institution for a
7 period of time or committed to the Department of Correction.

8 (iii) If the defendant is committed to the
9 Department of Correction under subdivision (b)(1)(D)(ii) of this section, the
10 court shall specify if the commitment is for judicial transfer of the
11 ~~offender~~ defendant to the Department of Community Correction or is a
12 commitment to the Department of Correction; or

13 (2)(A) Commit the defendant to the custody of the Department of
14 Correction for judicial transfer to the Department of Community Correction
15 subject to the following:

16 (i) That the sentence imposed provides that the
17 defendant shall not serve more than ~~two (2)~~ three (3) years of confinement,
18 with credit for meritorious good time, with initial placement in a Department
19 of Community Correction facility; and

20 (ii) That the ~~initial~~ preliminary placement in the
21 Department of Community Correction facility is conditioned upon the
22 Department of Community Correction's final determination of the defendant's
23 initial and continuing eligibility for Department of Community Correction
24 placement and the defendant's compliance with all applicable rules
25 established by the board for community correction programs.

26 (B) Post-prison supervision of the defendant shall
27 accompany and follow the community correction program when appropriate.

28 (c) A defendant may not be excluded from placement in a community
29 correction program under this section based solely on the defendant's
30 inability to speak, read, write, hear, or understand English.

31 (d)(1) If after receipt of an order directing a defendant to a
32 community correction center, the Department of Community Correction
33 determines that the defendant is not eligible for placement in a community
34 correction program under § 16-93-1201 et seq., the Department of Community
35 Correction shall not admit the defendant but shall immediately notify the
36 prosecuting attorney in writing.

1 (2) After receipt of the notice required under subdivision
 2 (d)(1) of this section, the prosecuting attorney shall notify the court of
 3 the defendant's ineligibility for placement in a community correction center,
 4 and the court shall resentence the defendant accordingly.

5 (e)(1) Upon receipt of a sentencing order committing a person to the
 6 Department of Correction, if the Department of Correction determines that the
 7 sentence imposed meets the eligibility requirements for placement in a
 8 community correction program under this subchapter and § 16-93-1202, the
 9 Department of Correction may administratively transfer the person to the
 10 Department of Community Correction, regardless of whether the sentencing
 11 order so designates.

12 (2) Administrative transfer under this subchapter is conditioned
 13 upon bed space availability and upon the Department of Community Correction's
 14 final determination of the person's initial and continuing eligibility for
 15 Department of Community Correction placement.

16 (3) A determination of ineligibility by the Department of
 17 Community Correction shall result in the immediate return of the person to
 18 the Department of Correction.

19
 20 SECTION 2. Arkansas Code Title 6, Chapter 64, Subchapter 12, is
 21 repealed due to duplicate codification in Title 12.

22 ~~6-64-1201. Definitions.~~

23 ~~As used in this subchapter:~~

24 ~~(1) "Community mental health centers" means those private~~
 25 ~~nonprofit organizations certified by the Division of Behavioral Health~~
 26 ~~Services under § 20-46-301 et seq., as community mental health centers and~~
 27 ~~contracted to perform designated public mental health services in the~~
 28 ~~respective catchment areas of the state;~~

29 ~~(2) "Crisis Intervention Team" means a community-based~~
 30 ~~collaborative effort between law enforcement officers and jail personnel and~~
 31 ~~mental health professionals to help law enforcement officers and jail~~
 32 ~~personnel handle incidents involving persons with mental illnesses;~~

33 ~~(3) "Inmate with mental illness" means a jail inmate who, after~~
 34 ~~being assessed by a person qualified by licensure to conduct an assessment,~~
 35 ~~meets the criteria for serious mental illness or is in danger of harm to~~
 36 ~~himself or herself or to others;~~

1 ~~(4) "Jail inmate" means a natural person who is in the custody~~
2 ~~of law enforcement authorities within the confines of a county jail; and~~

3 ~~(5) "Person with mental illness arrested by a law enforcement~~
4 ~~officer" means a person who appears to be a danger to himself or herself or~~
5 ~~to others or to need mental health evaluation for treatment.~~

6
7 ~~6-64-1202. Law Enforcement Training Committee — Creation — Duties.~~

8 ~~(a) The Law Enforcement Training Committee is created to:~~

9 ~~(1) Identify mental health training needs for law enforcement~~
10 ~~officers; and~~

11 ~~(2) Develop a mental health training curriculum for law~~
12 ~~enforcement officers and jail personnel to be delivered statewide.~~

13 ~~(b)(1) The committee shall be led by the Criminal Justice Institute.~~

14 ~~(2) The committee shall include representatives of:~~

15 ~~(A) The Arkansas Law Enforcement Training Academy;~~

16 ~~(B) The Research and Training Institute of the Division of~~
17 ~~Behavioral Health Services;~~

18 ~~(C) The Department of Community Correction;~~

19 ~~(D) The Mental Health Council of Arkansas;~~

20 ~~(E) The Administrative Office of the Courts;~~

21 ~~(F) Local, state, and county law enforcement officers; and~~

22 ~~(G) Mental health practitioners.~~

23 ~~(c) The training and delivery strategies may consist of:~~

24 ~~(1) Basic level training for law enforcement officers and jail~~
25 ~~personnel to be included in the entry level training program curricula;~~

26 ~~(2) Advanced level training for law enforcement officers and~~
27 ~~jail personnel that is designed to enhance the effectiveness of the response~~
28 ~~of law enforcement officers and jail personnel to persons with mental~~
29 ~~illnesses;~~

30 ~~(3) Training, such as Crisis Intervention Team training, that~~
31 ~~includes methods for establishing a collaborative effort between law~~
32 ~~enforcement personnel and the community to provide appropriate services to~~
33 ~~those persons with mental illnesses who come into contact with the law~~
34 ~~enforcement system;~~

35 ~~(4) Establishment of regional training teams, consisting of~~
36 ~~mental health and law enforcement officers; and~~

1 Chapter 3, Subchapter 28, is amended to read as follows:

2 Subchapter 28 – ~~Legislative Criminal Justice Oversight Task Force~~ Task Forces
3 Concerning Criminal Justice

4
5 SECTION 4. Arkansas Code Title 10, Chapter 3, Subchapter 28, is
6 amended to add an additional section to read as follows:

7 10-3-2802. Interagency Task Force for the Implementation of Criminal
8 Justice Prevention Initiatives.

9 (a)(1)(A) There is created the Interagency Task Force for the
10 Implementation of Criminal Justice Prevention Initiatives.

11 (B) The purpose of the task force is to coordinate the
12 implementation of initiatives and strategies designed to promote efficiency
13 and safety in the criminal justice system as well as promote justice
14 reinvestment goals.

15 (2) The Board of Corrections shall provide staff support for the
16 task force.

17 (b) The task force shall be composed of the following thirteen (13)
18 members, as follows:

19 (1) Four (4) members shall be appointed by the Governor:

20 (A) One (1) member who is a circuit court judge;

21 (B) One (1) member who is a county sheriff;

22 (C) One (1) member who is a county judge; and

23 (D) One (1) member who is appointed by and who represents
24 the Governor;

25 (2) Two (2) members of the Senate appointed by the President Pro
26 Tempore of the Senate;

27 (3) Two (2) members of the House of Representatives appointed by
28 the Speaker of the House of Representatives;

29 (4) One (1) member appointed by the Director of the Department
30 of Human Services who represents the Division of Behavioral Health Services
31 of the Department of Human Services;

32 (5) The Chair of the Board of Corrections or his or her
33 designee;

34 (6) The Chair of the Parole Board or his or her designee;

35 (7) The Director of the Department of Correction or his or her
36 designee; and

1 (8) The Director of the Department of Community Correction or
2 his or her designee.

3 (c)(1) The task force shall meet on or before the thirtieth day after
4 September 1, 2017, at the call of the member appointed by and who represents
5 the Governor, and organize itself by electing one (1) of its members as Chair
6 of the Interagency Task Force for the Implementation of Criminal Justice
7 Prevention Initiatives and such other officers as the task force may consider
8 necessary.

9 (2) Thereafter, the task force shall meet at least quarterly and
10 at the call of the chair or by a majority of the members.

11 (3) A quorum of the task force consists of nine (9) members.

12 (d) The task force has the following powers and duties:

13 (1) To track the implementation of and evaluate compliance with
14 this act;

15 (2) To review performance and outcome measure reports submitted
16 semiannually by the Department of Correction, Department of Community
17 Correction, Parole Board, Board of Correction, Arkansas Sentencing
18 Commission, and Specialty Court Program Advisory Committee under this act and
19 evaluate the impact;

20 (3) Develop quality assurance reporting on the implementation of
21 policies and expenditure of resource investments related to the justice
22 reinvestment policies and reinvestments; and

23 (4)(A) To prepare and submit an annual report of the performance
24 and outcome measures that are part of this act to the Legislative Council,
25 the Governor, and the Chief Justice of the Supreme Court.

26 (B) The annual report shall include recommendations for
27 improvements and a summary of savings generated and the impact on public
28 safety resulting from this act.

29 (e) Members of the task force shall receive no pay for their services,
30 but each member may receive expense reimbursement in accordance with § 25-16-
31 901 et seq.

32 (f) This section expires on July 1, 2019.

33
34 SECTION 5. Arkansas Code Title 12, Chapter 6, is amended to add an
35 additional subchapter to read as follows:

36 Subchapter 6 – Local Criminal Justice Coordinating Committees

1
2 12-6-601. Local criminal justice coordinating committees.

3 (a) The General Assembly find that the investment of state or federal
4 funding for the operation of a crisis stabilization unit under the Behavioral
5 Health Crisis Intervention Protocol Act of 2017, § 20-47-801 et seq.,
6 necessitates efficient expenditure of the state or federal funds.

7 (b) The General Assembly encourages the establishment of local
8 criminal justice coordinating committees composed of local judges,
9 corrections officials, the prosecuting attorney, law enforcement officials,
10 county officials, medical professionals, and mental health professionals.

11 (c) A local criminal justice coordinating committee may be created
12 under this section and shall:

13 (1) Periodically review data and records of local and regional
14 detention facilities collected under § 12-12-219 and data concerning a local
15 crisis intervention team and crisis stabilization unit, when applicable;

16 (2) Assist in the access and transfer of data described under
17 subdivision (c)(1) of this section; and

18 (3) Recommend protocols for the efficient and effective use of
19 local criminal justice resources, and a crisis intervention team and crisis
20 stabilization unit, when applicable.

21
22 SECTION 6. Arkansas Code Title 12, Chapter 9, Subchapter 1, is amended
23 to add an additional section to read as follows:

24 12-9-118. Behavioral health crisis intervention training.

25 (a)(1) In accordance with the certification requirements of the
26 Arkansas Commission on Law Enforcement Standards and Training for law
27 enforcement officers, a law enforcement officer enrolled in a commission-
28 certified basic police training academy shall complete at least eight (8)
29 hours of training relating to behavioral health crisis intervention in a law
30 enforcement context.

31 (2) Practicum training is sufficient for the requirement under
32 subdivision (a)(1) of this section.

33 (b) Training under subsection (a) of this section shall include
34 without limitation:

35 (1) The dynamics of relating to an individual:

36 (A) With a behavioral health impairment as defined in §

1 20-47-803;

2 (B) Who has demonstrated a substantial likelihood of
3 committing bodily harm against himself or herself;

4 (C) Who has demonstrated a substantial likelihood of
5 committing bodily harm against another person; or

6 (D) Who is under the influence of alcohol or a controlled
7 substance to the extent that the individual's judgment and decision-making
8 process is impaired;

9 (2) Available mental health service providers and supportive
10 services;

11 (3) The voluntary and involuntary commitment process;

12 (4) Law enforcement interaction with hospitals, mental health
13 professionals, the judiciary, and the mental health services community; and

14 (5) Practices to promote the safety of law enforcement officers
15 and the public.

16 (c)(1) The commission shall offer advanced training for qualified law
17 enforcement officers of at least forty (40) hours that shall include without
18 limitation skills-based, nonclassroom practical training.

19 (2) A law enforcement agency shall employ at least one (1) law
20 enforcement officer who has completed within eighteen (18) months of the
21 effective date of this act the advanced training as described under
22 subdivision (c)(1) of this section.

23 (d) All training required under this section and the curriculum for
24 the training shall be developed by the commission in collaboration with the
25 Criminal Justice Institute of the University of Arkansas System.

26
27 SECTION 7. Arkansas Code Title 12, Chapter 9, is amended to add an
28 additional subchapter to read as follows:

29 Subchapter 7 – Behavioral Health Crisis Intervention Training

30 12-9-701. Definitions.

31 As used in this subchapter:

32 (1) "Behavioral health impairment" means the same as defined in
33 § 20-47-803;

34 (2) "Community mental health center" means the same as defined
35 in § 20-47-803; and

36 (3) "Crisis intervention team" means the same as defined in §

1 20-47-803.

2
3 12-9-702. Behavioral health crisis intervention training and team
4 training program.

5 (a)(1) The establishment of behavioral health crisis intervention
6 training and a behavioral health crisis intervention team training program is
7 permitted under this subchapter and shall be:

8 (A) Supported by state funding; and

9 (B) Provided initial assistance in organization.

10 (2) Local law enforcement agencies may apply to the Criminal
11 Justice Institute for behavioral health crisis intervention training under
12 this subchapter.

13 (b) The goal of the behavioral health crisis intervention team
14 training program is to establish a collaborative effort between law
15 enforcement officers and jail personnel and the mental health services
16 community to provide appropriate services to an individual with a behavioral
17 health impairment who comes into contact with the law enforcement system.

18
19 SECTION 8. Arkansas Code § 12-11-110 is repealed as the process of
20 arrest and citation by a law enforcement officer is already addressed under
21 the Arkansas Rules of Criminal Procedure.

22 ~~12-11-110. Drunken, insane, and disorderly persons.~~

23 ~~A law enforcement officer shall arrest a drunken, insane, or disorderly~~
24 ~~person whom he or she finds at large and not in the care of a competent~~
25 ~~person.~~

26
27 SECTION 9. Arkansas Code Title 12, Chapter 12, Subchapter 2, is
28 amended to add an additional section to read as follows:

29 12-12-219. Records of local and regional detention facilities.

30 (a) The Arkansas Crime Information Center shall permit and encourage
31 the entry of the following data submitted by a local or regional detention
32 facility, such as a county jail, into a database maintained by the center and
33 accessible by an entity as determined by the Supervisory Board of the
34 Arkansas Crime Information Center:

35 (1) Local or regional detention facility inmate population,
36 including the number of inmates currently housed over the recognized maximum

1 capacity of the local or regional detention facility;

2 (2) The types and number of offenses for which the inmates are
3 being housed in the local or regional detention facility;

4 (3) Information concerning the inmates admitted to and released
5 from the local or regional detention facility, including without limitation:

6 (A) The State Identification Number of the inmate;

7 (B) The offenses the inmates committed or were accused of
8 committing; and

9 (C) The dates the inmates were both taken into custody and
10 released;

11 (4)(A) A record of any mental health screening of an inmate
12 administered by a law enforcement agency or healthcare facility.

13 (B) The results of a mental health screening administered
14 by a law enforcement agency or healthcare facility may be entered into the
15 database as permitted by state or federal law; and

16 (5) Any other data that that would be of assistance to a law
17 enforcement agency, state agency, legislative committee, academic researcher,
18 or other entity permitted to access the data.

19 (b) The center shall promulgate rules necessary to implement this
20 section.

21
22 SECTION 10. Arkansas Code § 12-27-127 is amended to read as follows:

23 12-27-127. Transfer to the Department of Community Correction =
24 Transfer of an inmate between departments.

25 (a) Unless a commitment specifies that the inmate is to be judicially
26 transferred to the Department of Community Correction, the commitment shall
27 be treated as a commitment to the Department of Correction and subject to
28 regular transfer eligibility.

29 (b)(1) In accordance with rules and procedures promulgated by the
30 Board of Corrections and the orders of the committing court, the Director of
31 the Department of Community Correction shall assign a newly transferred
32 inmate to an appropriate facility, placement, program, or status within the
33 Department of Community Correction.

34 (2) The director may transfer an inmate from one (1) facility,
35 placement, program, or status to another consistent with the commitment,
36 applicable law, and in accordance with treatment, training, and security

1 needs.

2 (3)(A) An inmate may be administratively transferred back to the
 3 Department of Correction from the Department of Community Correction by the
 4 Parole Board following a hearing in which the inmate is found ineligible for
 5 placement in a Department of Community Correction facility as he or she fails
 6 to meet the criteria or standards established by law or policy adopted by the
 7 Board of Corrections or has been found guilty of a violation of the rules of
 8 the facility.

9 (B) Time served in a community correction facility or
 10 under supervision by the Department of Community Correction shall be credited
 11 against the sentence contained in the commitment to the Department of
 12 Correction.

13 (c)(1) In accordance with rules and procedures promulgated by the
 14 Board of Corrections, upon receipt of a referral from the director or his or
 15 her designee, the Parole Board may release from confinement an inmate who has
 16 been:

17 (A) Sentenced and judicially transferred to the Department
 18 of Community Correction;

19 (B) Incarcerated for a minimum of ~~two hundred seventy~~
 20 ~~(270)~~ one hundred eighty (180) days; and

21 (C) Determined by the Department of Community Correction
 22 to have successfully completed its therapeutic program.

23 (2)(A) The General Assembly finds that the power granted to the
 24 Parole Board under subdivision (c)(1) of this section will:

25 (i) Aid the therapeutic rehabilitation of the
 26 inmates judicially transferred to the Department of Community Correction; and

27 (ii) More efficiently use the correctional resources
 28 of the State of Arkansas.

29 (B) The power granted to the Parole Board under
 30 subdivision (c)(1) of this section shall be the sole authority required for
 31 the accomplishment of the purposes set forth in this subdivision (c)(2), and
 32 when the Parole Board exercises its power under this section, it shall not be
 33 necessary for the Parole Board to comply with general provisions of other
 34 laws dealing with the minimum time constraints as applied to release
 35 eligibility.

36 (3) This subsection does not grant the Parole Board or the

1 Department of Community Correction the authority either to detain an inmate
 2 beyond the sentence imposed upon him or her by a transferring court or to
 3 shorten that sentence.

4 (d)(1) An inmate of the Department of Correction who is to be released
 5 on parole may be administratively transferred to the Department of Community
 6 Correction when the inmate is within eighteen (18) months of his or her
 7 projected release date for the purpose of participating in a reentry program
 8 of at least six (6) months in length.

9 (2) Each inmate administratively transferred under this
 10 subsection shall be thoroughly screened and approved for participation by the
 11 director or his or her designee.

12 (3) In accordance with rules promulgated by the Board of Corrections,
 13 upon receipt of a referral from the director or his or her designee, the
 14 Parole Board may release from incarceration an inmate who has been:

15 (A) Administratively transferred to the Department of
 16 Community Correction; and

17 (B) Determined by the Department of Community Correction
 18 to have successfully completed its reentry program.

19 (4) An inmate who has been administratively transferred under
 20 this subsection shall be administratively transferred back to the Department
 21 of Correction if he or she:

22 (A) Is denied parole; or

23 (B) Fails to complete or is removed from the reentry
 24 program.

25 (e) Subject to rules promulgated by the Board of Correction, an inmate
 26 may be administratively transferred between the Department of Correction and
 27 the Department of Community Correction if the inmate is serving a sentence
 28 for a conviction that makes the inmate statutorily eligible for transfer to
 29 the Department of Community Correction.

30

31 SECTION 11. Arkansas Code Title 12, Chapter 27, Subchapter 1, is
 32 amended to add an additional section to read as follows:

33 12-27-148. Department of Community Correction – Sufficient staffing
 34 guidelines.

35 For the purposes of maintaining a sufficiently trained and specialized
 36 staff of probation and parole officers, the Department of Community

1 Correction shall establish staffing guidelines using evidence-based practices
2 to develop ratios between the number of high-risk, medium-risk, and low-risk
3 probationers and parolees and the probation officers and parole officers
4 assigned to the high-risk, medium-risk, and low-risk probationers and
5 parolees in order to maximize the effectiveness of the monitoring ability of
6 the probation officers and parole officers.

7
8 SECTION 12. Arkansas Code Title 12, Chapter 41, Subchapter 1, is
9 amended to add an additional section to read as follows:

10 12-41-108. Behavioral health and risk screening tool – Database entry.

11 A local correctional facility is encouraged to:

12 (1) Adopt independently, or in collaboration with other local
13 correctional facilities or nongovernmental law enforcement entities, a
14 screening tool designed to screen inmates or other detainees for a behavioral
15 health impairment, substance abuse issues, and criminogenic risk; and

16 (2) Utilize the database maintained by the Arkansas Crime
17 Information Center under § 12-12-219 concerning entry of data and information
18 collected from inmates at a local correctional facility.

19
20 SECTION 13. Arkansas Code § 16-90-801 is amended to read as follows:

21 16-90-801. Statement of sentencing policy.

22 ~~(a) Purposes of Sentencing.~~ The primary purposes of sentencing a
23 person convicted of ~~a crime~~ an offense are to:

24 ~~(1) To punish an offender~~ Punish the offender convicted of an
25 offense commensurate with the nature and extent of the harm caused by the
26 offense, taking into account factors that may diminish or increase ~~an the~~
27 offender’s culpability;

28 ~~(2) To protect~~ Protect the public by restraining ~~an offenders~~
29 offender;

30 ~~(3) To provide~~ Provide restitution or restoration to victims of
31 crime to the extent possible and appropriate;

32 ~~(4) To assist~~ Assist the offender toward rehabilitation and
33 restoration to the community as a lawful citizen; and

34 ~~(5) To deter~~ Deter criminal behavior and foster respect for the
35 law.

36 ~~(b)(1) Purpose of Sentencing Standards. (1) Though voluntary, the~~ The

1 purpose of establishing rational and consistent sentencing standards is to
 2 seek to ensure that sanctions imposed following conviction are proportional
 3 to the seriousness of the offense of conviction and the extent of ~~the~~ an
 4 offender's criminal history.

5 (2) The sentencing standards seek to ensure equitable sanctions
 6 which provide that offenders who are similar with respect to relevant
 7 sentencing criteria ~~will~~ shall receive similar sanctions and offenders who
 8 are substantially different with respect to relevant sentencing criteria ~~will~~
 9 shall receive different sanctions.

10 (3) Sentencing criteria and any departure from a presumptive
 11 sentence range, as established by law, should be neutral with respect to
 12 race, gender, employment status, legal representation, religion, or social,
 13 and economic status.

14 ~~(c)(1) Appropriate Use of Sentencing Sanctions.—(1)~~ Rational and
 15 consistent sentencing policy requires a continuum of sanctions ~~which~~
 16 ~~increases~~ that increase in direct proportion to the seriousness of the
 17 offense and the extent of the offender's criminal history.

18 (2) Commitment to the Department of Correction is the most
 19 severe sanction and due to the finite capacity of the department's
 20 facilities, ~~it~~ commitment to the department should be reserved for those
 21 persons:

22 (A) ~~convicted~~ Convicted of the most serious offenses, ~~those~~
 23 who;

24 (B) Who have longer criminal histories, ~~and those who~~
 25 have; and

26 (C) Who have repeatedly failed to comply with conditions
 27 imposed under less restrictive sanctions.

28 (3) Arkansas law provides for significant intermediate penal
 29 sanctions in the community which should be utilized when appropriate.

30 (4) Restrictions on an offender's liberty should only be as
 31 restrictive as necessary to fulfill the purposes of sentencing contained in
 32 this policy.

33
 34 SECTION 14. Arkansas Code § 16-90-803 is amended to read as follows:
 35 16-90-803. ~~Voluntary presumptive~~ Presumptive standards.

36 (a)(1)(A) When a person charged with a felony enters a plea of guilty

1 or nolo contendere, enters a negotiated plea, or is found guilty in a trial
 2 before ~~the judge~~ a court without a jury, or when ~~the judge~~ a trial court is
 3 authorized to fix punishment following an adjudication of guilt by a jury
 4 ~~pursuant to~~ under § 5-4-103, sentencing may follow the sentencing procedures
 5 provided in § 16-90-804.

6 (B) However, ~~these~~ the sentencing procedures under § 16-
 7 90-804 do not apply to probation revocation proceedings.

8 (2) The presumptive sentence for ~~any offender of a felony~~
 9 ~~committed~~ an offender who committed a felony on or after January 1, 1994, may
 10 be determined by locating the appropriate cell of the sentencing standards
 11 grid.

12 (b) ~~The two dimensions of the sentencing standards grid represent the~~
 13 ~~primary determinants of a sentence, offense seriousness, and offender~~
 14 ~~history.~~ The offense seriousness level and an offender's criminal history
 15 score are the two (2) dimensions of the sentencing standards grid and
 16 represent the primary determinants of a sentence as follows:

17 (1) ~~Offense Seriousness.~~ The offense seriousness level is
 18 determined by the offense of conviction or the offense of which the person
 19 was found guilty or to which the person pleaded guilty or nolo ~~contendere,~~
 20 contendere as follows:

21 (A) Felony offenses are divided into ten (10) levels of
 22 seriousness, ranging from low, seriousness level I, to high, seriousness
 23 level X+;

24 (B) The typical cases for the offenses listed within each
 25 level of seriousness are deemed to be generally equivalent in seriousness+;

26 (C) The most frequently occurring offenses within each
 27 seriousness level are listed on the vertical axis of the sentencing standards
 28 grid+;

29 (D) The seriousness level for infrequently occurring
 30 offenses can be determined by consulting the offense seriousness reference
 31 table+; and

32 (E) The seriousness level for inchoate offenses is one (1)
 33 level below the level for substantive offenses+;

34 (2) ~~Offender History.~~ An offender's criminal history score
 35 constitutes the horizontal axis of the sentencing standards grid+ as follows:

36 (A) The offender's criminal history score shall be

1 computed from the ~~following~~ offender's:

- 2 (i) Prior felony records;
- 3 (ii) Prior misdemeanor records;
- 4 (iii) Prior juvenile records, under certain
- 5 circumstances outlined below; and
- 6 (iv) Custody status at the time of the offense;

7 (B) ~~The term "records", for~~ For the purpose of computing a
8 criminal history scores, shall include score, "record" includes:

- 9 (i) Convictions;
- 10 (ii) Findings of guilt;
- 11 (iii) Acceptance of pleas of guilty or nolo
- 12 contendere;
- 13 (iv) Instances ~~where~~ when the ~~defendant~~ person has
- 14 been placed on probation, has had a suspended imposition of sentence, or has
- 15 had a suspended execution of sentence;
- 16 (v) Records ~~which~~ that have been expunged or sealed
- 17 after August 31, 1994; and
- 18 (vi) Dismissals ordered after August 31, 1994,
- 19 ~~pursuant to~~ under the First Offender Act, § 16-93-301 et seq.;

20 (C) The specific weights to be assigned to the various
21 criteria are as follows:

22 (i) ~~Weight is assigned to prior~~ Prior felony records
23 are weighted according to seriousness level, as follows:

24 (a) ~~Seriousness~~ One half (0.5) of a point for
25 seriousness levels I, II, III, IV, and V ~~= one half (0.5) point; and~~

26 (b) ~~Seriousness~~ One (1) point for seriousness
27 levels VI, VII, VIII, IX, and X ~~= one (1) point;~~

28 (ii)(a) ~~Weight is assigned only to~~ Prior misdemeanor
29 records are weighted only for Class A misdemeanors, which are worth one
30 quarter (0.25) of a point each.

31 (a) ~~Each Class A misdemeanor is worth one~~
32 ~~quarter (0.25) point.~~

33 (b) No more than one (1) point may be accrued
34 from misdemeanor records;

35 (iii) ~~Weight is assigned only to judicial~~ Judicial
36 adjudications of delinquency for offenses for which a juvenile could have

1 been tried as an adult and for which the trial court deem relevant to
2 sentencing in the current proceeding, are weighted as follows:

3 (a) Each adjudication is worth ~~one-quarter~~ one
4 quarter (0.25) of a point, except for offenses adjudicated as delinquent
5 ~~which that~~ if committed by an adult are worth one (1) point and would have
6 constituted:

- 7 (1) Capital murder, § 5-10-101;
- 8 (2) Murder in the first degree, § 5-10-
9 102;
- 10 (3) Murder in the second degree, § 5-10-
11 103;
- 12 (4) Kidnapping in the first degree, § 5-
13 11-102;
- 14 (5) Aggravated robbery, § 5-12-103;
- 15 (6) Rape, § 5-14-103; or
- 16 (7) Battery in the first degree, § 5-13-
17 201; and

18 (b)(1) No more than one (1) point may be
19 accrued from juvenile offenses unless one (1) of the offenses adjudicated as
20 delinquent would have constituted, if committed by an adult:

- 21 (A) Capital murder, § 5-10-101;
- 22 (B) Murder in the first degree, §
23 5-10-102;
- 24 (C) Murder in the second degree, §
25 5-10-103;
- 26 (D) Kidnapping in the first
27 degree, § 5-11-102;
- 28 (E) Aggravated robbery, § 5-12-
29 103;
- 30 (F) Rape, § 5-14-103; or
- 31 (G) Battery in the first degree, §
32 5-13-201.

33 (2) An offender may receive no more than
34 two (2) points for juvenile offenses; and

35 (iv)(a) One (1) point is to be added to an
36 offender's criminal history score if the offender is under any type of

1 criminal justice restraint for a felony offense at the time that he or she
2 committed the ~~crime~~ offense for which he or she is being sentenced.

3 (b) Such As used in this subdivision
4 (b)(2)(C)(iv), "criminal justice restraint" includes pretrial bond, suspended
5 imposition of sentence, probation, parole, postprison supervision, and
6 release pending sentencing for a prior crime;

- 7 (1) Pretrial bond;
- 8 (2) A suspended imposition of sentence;
- 9 (3) Probation;
- 10 (4) Parole;
- 11 (5) Postprison supervision; and
- 12 (6) Release pending sentencing for a

13 prior crime;

14 ~~(v)(a)(D)(i)~~ Juvenile offenses must have occurred Only a
15 juvenile offense that occurred within ten (10) years of the time of the
16 offense for which ~~an~~ the offender is being currently sentenced is included in
17 the calculation of that offender's criminal history score.

18 ~~(b)(ii)~~ Misdemeanor offenses must have occurred Only
19 a misdemeanor offense that occurred within ten (10) years of the time of the
20 offense for which ~~an~~ the offender is currently being sentenced is included in
21 the calculation of that offender's criminal history score.

22 ~~(c)(iii)~~ Felony offenses at seriousness levels A
23 felony offense with a seriousness level of I-V will not be counted is not
24 included in the calculation of an offender's criminal history score if a
25 period of fifteen (15) years has elapsed since the date of discharge from or
26 expiration of the sentence for the felony offense to the date of the current
27 offense; ~~and.~~

28 (vi) When multiple sentences for a single course of
29 conduct were imposed, only the offense at the highest seriousness level is
30 ~~considered,~~ included in the calculation of an offender's criminal history
31 score; and

32 (3)(A)(i) The offense of conviction determines the appropriate
33 seriousness level on the vertical axis.

34 (ii) The offender's criminal history score
35 determines the appropriate location on the horizontal axis.

36 (B) The presumptive fixed sentence for a felony conviction

1 is found in the sentencing standards grid cell at the intersection of the
 2 column defined by the criminal history score and the row defined by the
 3 offense seriousness level.

4 (C) The statutory minimum or maximum ranges for a
 5 particular ~~crime~~ offense shall govern over a presumptive sentence if the
 6 presumptive sentence ~~should fall~~ falls below or above ~~such~~ the statutory
 7 minimum or maximum ranges.

8 ~~(4)(c)(1)~~ This section ~~shall~~ does not apply when a jury has
 9 recommended a sentence to the ~~trial judge~~ trial court.

10 ~~(5)(2)~~ ~~Capital~~ The offense of capital murder, § 5-10-101, is
 11 excluded from the presumptive sentencing standards under this section and is
 12 subject to the procedures in § 5-4-601 et seq.

13 ~~(e)~~ ~~For all arrests or offenses occurring before July 1, 2005, that~~
 14 ~~have not reached a final disposition as to judgment in the trial court,~~
 15 ~~sentencing shall be in accordance with the law in effect at the time the~~
 16 ~~offense occurred and not under the provisions of this section.~~

17
 18 SECTION 15. Arkansas Code § 16-90-804 is amended to read as follows:

19 16-90-804. Departures from the ~~standards~~ presumptive sentencing range.

20 (a)(1) ~~The trial~~ A trial court may ~~deviate~~ depart from the presumptive
 21 ~~sentence without~~ sentence range determined under § 16-90-803 in reliance on
 22 one (1) or more aggravating factors only by providing a written justification
 23 of the substantial and compelling reasons for the departure, supported by
 24 objective and verifiable evidence.

25 (2) As part of the court's explanation to the person of the
 26 person's rights to appeal, the court shall advise the person verbally and in
 27 writing that he or she may appeal the sentence under § 16-91-119.

28 (b)(1)(A) When sentencing is done by the ~~judge~~ court following the
 29 entry of a plea of guilty or nolo contendere or following a trial before the
 30 ~~judge~~ court, either party or both parties may present evidence to justify a
 31 departure from the presumptive sentence range determined under § 16-90-803.

32 (B) The ~~judge~~ court may allow argument if ~~he or she~~ the
 33 court finds that ~~it~~ argument would be helpful.

34 (2)(A) If both ~~sides~~ parties agree on a recommended sentence,
 35 the ~~judge~~ court may choose to accept or reject the agreement based upon the
 36 facts of the case and whether ~~those~~ the facts support the presumptive

1 sentence range determined under § 16-90-803 or a departure different from any
 2 recommendation.

3 (B) If there is an agreed departure from the presumptive
 4 sentence range under § 16-90-803, ~~written reasons shall be supplied by~~ the
 5 parties shall supply written reasons to the court to attach to the commitment
 6 and to forward to the Arkansas Sentencing Commission.

7 (C) If the ~~judge~~ court rejects the agreement under
 8 subdivision (b)(2)(B) of this section, the defendant shall be allowed to
 9 withdraw his or her plea.

10 (c) The following is a nonexclusive list of mitigating factors ~~which~~
 11 that may be considered as a reason or reasons for departure from the
 12 presumptive sentence range under § 16-90-803:

13 ~~(1) Mitigating factors.~~

14 ~~(A)(1)~~ While falling short of a defense, the victim played an
 15 aggressive role in the incident or provoked or willingly participated in ~~it~~
 16 the incident;

17 ~~(B)(i)(2)(A)~~ While falling short of a defense, the victim played
 18 an aggressive role in the incident or provoked or willingly participated in
 19 ~~it~~; While falling short of a defense, the person lacked substantial capacity
 20 for judgment because of physical or mental impairment.

21 ~~(ii)(B)~~ Voluntary use of ~~drugs or alcohol~~ or a controlled
 22 substance does not fall within ~~this factor~~ the factor described in
 23 subdivision (c)(2)(A) of this section;

24 ~~(C)(3)~~ The offender played a minor or passive role in the ~~crime~~
 25 commission of the current offense;

26 ~~(D)(4)~~ Before detection, the offender compensated or made a good
 27 faith effort to compensate the victim for any damage or injury sustained by
 28 the victim;

29 ~~(E)(5)~~ The current offense was principally accomplished by
 30 another person, and the offender manifested extreme caution or sincere
 31 concern for the safety or well-being of the victim;

32 ~~(F)(6)~~ The offender or the offender's children suffered a
 33 continuing pattern of physical or sexual abuse by the victim of the current
 34 offense, and the current offense is a response to ~~that~~ the physical or sexual
 35 abuse;

36 ~~(G)(7)~~ The ~~operation of the multiple offense policy~~ inclusion of

1 multiple offenses in calculating the presumptive sentence range under § 16-
 2 90-803 results in a presumptive sentence that is clearly excessive in light
 3 of the purpose of this chapter;

4 ~~(H)(8)~~ Before If the current offense is a sexual offense, before
 5 detection in ~~sexual offenses~~ the sexual offense, the offender has voluntarily
 6 admitted the nature and extent of the sexual offense and has sought and
 7 participated in professional treatment or counseling for ~~such offenses~~ the
 8 sexual offense; ~~or~~ and

9 ~~(I)(9)~~ Upon motion of the state stating that the defendant has
 10 made a good faith effort to provide substantial assistance to the
 11 investigation or prosecution of another person who has committed an offense,
 12 the circumstances listed below may be weighed as mitigating factors with
 13 respect to the defendant's offense:

14 ~~(i)(A)~~ The timeliness of the defendant's assistance;

15 ~~(ii)(B)~~ The nature and extent of the defendant's
 16 assistance; and

17 ~~(iii)(C)~~ The truthfulness, completeness, and demonstrable
 18 reliability of any information or testimony provided by the defendant; ~~and.~~

19 ~~(2) Aggravating factors.~~

20 (d) The following is a nonexclusive list of aggravating factors that
 21 may be considered as a reason or reasons for departure from the presumptive
 22 sentence range determined under § 16-90-803:

23 ~~(A)(1)~~ The offender's conduct during the commission of the
 24 current offense manifested deliberate cruelty to the victim exhibited by
 25 degrading, gratuitous, vicious, torturous, and demeaning physical or verbal
 26 abuse, unusual pain, or violence in excess of that necessary to accomplish
 27 the criminal purpose;

28 ~~(B)(2)~~ The offender knew or should have known that the victim
 29 was particularly vulnerable or incapable of resistance due to extreme youth,
 30 advanced age, disability, or ill health;

31 ~~(C)(3)~~ The current offense was a major economic offense or
 32 series of offenses, ~~so~~ as identified by a consideration of any of the
 33 following factors:

34 ~~(i)(A)~~ The current offense involved multiple victims or
 35 multiple incidents per victim;

36 ~~(ii)(B)~~ The current offense involved attempted or actual

1 monetary loss substantially greater than typical for the offense;

2 ~~(iii)~~(C) The current offense involved a high degree of
3 sophistication or planning or occurred over a lengthy period of time;

4 ~~(iv)~~(D)(i) The defendant used his or her position of
5 trust, confidence, or fiduciary responsibility to facilitate the commission
6 of the current offense.

7 (ii) ~~This factor~~ The factor described under
8 subdivision (d)(3)(D)(i) of this section does not apply if it constitutes an
9 element of the ~~crime~~ current offense; or

10 ~~(v)~~(E) The defendant has been involved in other conduct
11 similar to the current offense as evidenced by the findings of civil or
12 administrative law proceedings or the imposition of professional sanctions;

13 ~~(D)~~(4)(A) The current offense was a major controlled substance
14 offense, identified as an offense or series of offenses related to
15 trafficking in controlled substances under circumstances more onerous than
16 the usual controlled substance offense.

17 (B) The presence of two (2) or more of the ~~circumstances~~
18 ~~listed below~~ following circumstances is an aggravating factor with respect to
19 the current offense:

20 (i) The current offense involved at least three (3)
21 separate transactions ~~wherein~~ in which controlled substances were sold,
22 transferred, or possessed with ~~intent to do so~~ a purpose to sell or transfer
23 the controlled substance;

24 (ii) The current offense involved an attempted or
25 actual sale or transfer of a controlled substance ~~substances~~ substance in ~~amounts~~ an
26 amount substantially larger than the statutory minimum ~~which~~ that defines the
27 current offense;

28 (iii) The current offense involved a high degree of
29 sophistication or planning or occurred over a lengthy period of time or
30 involved a broad geographic area of disbursement;

31 (iv) The circumstances of the current offense reveal
32 the offender to have occupied a high position in the drug distribution
33 hierarchy;

34 (v) The offender used his or her position or status
35 to facilitate the commission of the current offense, including without
36 limitation positions of trust, confidence, or fiduciary relationships, ~~for~~

1 ~~example, such as~~ a pharmacist, physician, or other medical professional; or
 2 (vi) The offender has received substantial income or
 3 resources from his or her involvement in ~~drug~~ trafficking a controlled
 4 substance;

5 ~~(E)(5)(A)~~ The ~~offender~~ current offense is a felony and the
 6 offender employed a firearm in the course of or in furtherance of the felony
 7 or in immediate flight ~~therefrom~~ from the felony.

8 ~~(B)~~ ~~This factor~~ The factor described under subdivision
 9 (d)(5)(A) of this section does not apply to an offender convicted of a
 10 felony, an element of which is:

- 11 (i) Employing or using, or threatening or attempting
- 12 to employ or use, a deadly weapon;
- 13 (ii) Being armed with a deadly weapon;
- 14 (iii) Possessing a deadly weapon;
- 15 (iv) Furnishing a deadly weapon; or
- 16 (v) Carrying a deadly weapon;

17 ~~(F)(6)~~ The current offense was a sexual offense and was part of
 18 a pattern of criminal behavior with the same or different victims under ~~the~~
 19 ~~age of~~ eighteen (18) years of age manifested by multiple incidents over a
 20 prolonged period of time;

21 ~~(G)(7)~~ The ~~operation of the multiple offense policy~~ inclusion of
 22 multiple offenses in calculating the presumptive sentence range under § 16-
 23 90-803 results in a presumptive sentence that is clearly too lenient in light
 24 of the purpose of this chapter;

25 ~~(H)(8)~~ The current offense was committed in a manner that
 26 exposed risk of injury to ~~individuals~~ persons other than the victim or
 27 victims, ~~for example, including without limitation~~ shooting a firearm into a
 28 crowd of people;

29 ~~(I)(9)~~ The current offense was a violent or sexual offense
 30 committed in the victim's zone of privacy, ~~for example, his or her~~ including
 31 without limitation the victim's home or the curtilage ~~thereof~~ of the victim's
 32 home;

33 ~~(J)(10)~~ The offender ~~attempts~~ attempted to cover or conceal the
 34 current offense by intimidation of witnesses, destruction or tampering with
 35 evidence, or purposely misleading authorities;

36 ~~(K)(11)~~ The current offense was committed for the purpose of

1 avoiding or preventing an arrest or effecting an escape from custody; ~~or~~ and
2 ~~(L)(12) In offenses related to vehicular homicides~~ If the
3 current offense related to a vehicular homicide, the offender ~~does~~ did not
4 have the minimum insurance required by law.

5 ~~(d)~~(e) This section shall not apply when a jury has recommended a
6 sentence to the ~~trial judge~~ trial court.

7 ~~(e)(1) For all arrests or offenses occurring before July 1, 2005, that~~
8 ~~have not reached a final disposition as to judgment in court, sentencing~~
9 ~~should follow the law in effect at the time the offense occurred.~~

10 ~~(2) Any defendant is subject to the sentencing guidelines in~~
11 ~~effect at that time and not under the provisions of this section.~~

12
13 SECTION 16. Arkansas Code Title 16, Chapter 91, Subchapter 1, is
14 amended to add an additional section to read as follows:

15 16-91-119. Right of appeal – Departure from sentencing grid.

16 (a) A person sentenced by a circuit court for a felony offense or the
17 state may appeal the person’s sentence to the appellate court having
18 jurisdiction if the person’s sentence is a deviation from the presumptive
19 sentence range determined under § 16-90-803.

20 (b) The appellate court having jurisdiction shall review an appeal
21 under this section de novo.

22 (c) If the appellate court having jurisdiction determines that there
23 was not a substantial and compelling reason for departing from the
24 presumptive sentence range under § 16-90-803, it shall remand the matter back
25 to the circuit court for resentencing.

26 (d) A sentence resulting from jury sentencing or an agreed-upon or
27 negotiated plea is exempt from this section.

28
29 SECTION 17. Arkansas Code § 16-93-101, concerning definitions for
30 probation and parole, is amended to add additional subdivisions to read as
31 follows:

32 (13) "Serious conditions violation" means a violation of the
33 conditions of a parolee’s parole or probationer’s probation that results
34 from:

35 (A) An arrest for a misdemeanor offense that does not
36 involve:

1 (i) An act involving physical injury to another
 2 person; or

3 (ii) An offense for which a conviction would require
 4 the person to register as a sex offender under the Sex Offender Registration
 5 Act of 1997, § 12-12-901 et seq.; or

6 (B) The parolee's or probationer's purposely absencing
 7 himself or herself from supervision for a period of more than one hundred
 8 eighty (180) days; and

9 (14) "Technical conditions violation" means a violation of the
 10 conditions of a parolee's parole or a probationer's probation that results
 11 from a noncriminal act or positive drug screen; and

12
 13 SECTION 18. Arkansas Code § 16-93-308 is amended to read as follows:

14 16-93-308. Probation generally – Revocation – Definition.

15 (a)(1) At any time before the expiration of a period of suspension of
 16 sentence or probation, a court may summon a ~~defendant~~ person on probation or
 17 -serving a suspended sentence to appear before ~~it~~ the court or may issue a
 18 warrant for the ~~defendant's~~ person's arrest.

19 (2) The warrant may be executed by any law enforcement officer.

20 (b) At any time before the expiration of a period of suspension of
 21 sentence or probation, any law enforcement officer may arrest a ~~defendant~~
 22 person on probation or serving a suspended sentence without a warrant if the
 23 law enforcement officer has reasonable cause to believe that the ~~defendant~~
 24 person has failed to comply with a condition of his or her suspension of
 25 sentence or probation.

26 (c) A ~~defendant~~ person arrested for violation of suspension of
 27 sentence or probation shall be taken immediately before the court that
 28 suspended imposition of sentence or, if the ~~defendant~~ person was placed on
 29 probation, before the court supervising the probation.

30 (d) If a court finds by a preponderance of the evidence that the
 31 ~~defendant~~ person has inexcusably failed to comply with a condition of his or
 32 her suspension of sentence or probation, the court may revoke the suspension
 33 of sentence or probation at any time prior to the expiration of the period of
 34 suspension of sentence or probation.

35 (e) A finding of failure to comply with a condition of suspension of
 36 sentence or probation as provided in subsection (d) of this section may be

1 punished as contempt under § 16-10-108.

2 (f) A court may revoke a suspension of sentence or probation
3 subsequent to the expiration of the period of suspension of sentence or
4 probation if before expiration of the period:

5 (1) The ~~defendant~~ person is arrested for violation of suspension
6 of sentence or probation;

7 (2) A warrant is issued for the ~~defendant's~~ person's arrest for
8 violation of suspension of sentence or probation;

9 (3) A petition to revoke the ~~defendant's~~ person's suspension of
10 sentence or probation has been filed if a warrant is issued for the
11 ~~defendant's~~ person's arrest within thirty (30) days of the date of filing the
12 petition; or

13 (4) The ~~defendant~~ person has been:

14 (A) Issued a citation in lieu of arrest under Rule 5 of
15 the Arkansas Rules of Criminal Procedure for violation of suspension of
16 sentence or probation; or

17 (B) Served a summons under Rule 6 of the Arkansas Rules of
18 Criminal Procedure for violation of suspension of sentence or probation.

19 (g)(1)(A) If a court revokes a person's suspension of sentence or
20 probation, the court may enter a judgment of conviction and may impose any
21 sentence on the ~~defendant~~ person that might have been imposed originally for
22 the offense of which he or she was found guilty.

23 (B) However, any sentence to pay a fine or of
24 imprisonment, when combined with any previous fine or imprisonment imposed
25 for the same offense, shall not exceed the limits of § 5-4-201 or § 5-4-401,
26 or if applicable, § 5-4-501.

27 (2)(A) As used in this subsection, "any sentence" includes the
28 extension of a period of suspension or probation.

29 (B) If an extension of suspension of sentence or probation
30 is made upon revocation, the court is not deprived of the ability to revoke
31 the suspension of sentence or probation again ~~should~~ if the ~~defendant's~~
32 person's conduct again warrant revocation.

33 (h)(1) A court shall not revoke a suspension of sentence or probation
34 because of a person's inability to achieve a high school diploma, high school
35 equivalency diploma approved by the Department of Career Education, or
36 gainful employment.

1 (2)(A) However, the court may revoke a suspension of sentence or
2 probation if the person fails to make a good faith effort to achieve a high
3 school diploma, high school equivalency diploma approved by the Department of
4 Career Education, or gainful employment.

5 (B) As used in this section, "good faith effort" means a
6 person:

7 (i) Has been enrolled in a program of instruction
8 leading to a high school diploma or a high school equivalency diploma
9 approved by the Department of Career Education and is attending a school or
10 an adult education course; or

11 (ii) Is registered for employment and enrolled and
12 participating in an employment-training program with the purpose of obtaining
13 gainful employment.

14 (i)(1) If a person on probation is subject to a revocation hearing
15 under this subchapter for a technical conditions violation or a serious
16 conditions violation, the person on probation is subject to confinement
17 according to the time periods set out under § 16-93-309 without having his or
18 her probation revoked.

19 (2) After a person on probation has been confined three (3)
20 times under subdivision (i)(1) of this section, the person on probation is
21 subject to having his or her full probation revoked for the next violation of
22 his or her probation.

23
24 SECTION 19. Arkansas Code § 16-93-309 is amended to read as follows:

25 16-93-309. Probation generally – Revocation hearing – Sentence
26 alternatives.

27 (a) Following a revocation hearing held under § 16-93-307 and in which
28 a ~~defendant~~ person on probation or serving a suspended sentence has been
29 found guilty or has entered a plea of guilty or nolo contendere, the court
30 may:

31 (1) Continue the period of suspension ~~of imposition~~ of sentence
32 or continue the period of probation;

33 (2) Lengthen the period of suspension of sentence or the period
34 of probation within the limits set by § 5-4-306;

35 (3) Increase the fine within the limits set by § 5-4-201;

36 (4)(A) Impose a period of confinement to be served during the

1 period of suspension ~~of imposition~~ of sentence or period of probation, ~~or~~.

2 (B)(i) A period of confinement ordered under subdivision
3 (a)(4)(A) of this section resulting from a technical conditions violation or
4 serious conditions violation of probation shall be for exactly the following
5 periods, subject to subsection (b) of this section, before the person on
6 probation is released and returned to probation:

7 (a) Ninety (90) days' confinement for a
8 technical conditions violation; and

9 (b) One hundred eighty (180) days' confinement
10 for a serious conditions violation.

11 (ii) Any time in custody for which the person is
12 held before a period of confinement is ordered by the court under subdivision
13 (a)(4)(A) of this section shall be:

14 (a)(1) Served in a facility maintained by the
15 Department of Community Correction.

16 (2) Except for a person's initial
17 detention under this section or when an agreement has been reached between
18 the county jail and the Department of Community Correction concerning the
19 custody of a person awaiting a parole revocation hearing and possible
20 subsequent placement into a Department of Community Correction facility, the
21 person shall not serve a period of confinement ordered under this section in
22 a county jail, including any time the person is awaiting a parole revocation
23 hearing; and

24 (b) Credited to the overall period of
25 confinement ordered under subdivision (a)(4)(A) of this section; or

26 (5) Impose any conditions that could have been imposed upon
27 conviction of the original offense.

28 (b)(1) A period of confinement under subdivision (a)(4) of this
29 section may be reduced for good behavior and successful completion of the
30 technical violator program.

31 (2) A period of confinement shall not be reduced under
32 subdivision (a)(4) of this section for more than fifty percent (50%) of the
33 total time of confinement ordered to be served.

34 (c) If a person is in custody awaiting a parole revocation hearing
35 under this section for a technical conditions violation or a serious
36 conditions violation, the parole revocation hearing shall be conducted within

1 ten (10) business days.

2 ~~(b)(d)~~ Following a revocation hearing in which a ~~defendant~~ person is
3 ordered to continue on a period of suspension of sentence or a period of
4 probation, ~~nothing prohibits the court,~~ upon finding the ~~defendant~~ person
5 guilty at a subsequent revocation hearing, ~~from~~ the court may:

6 (1) ~~Revoking~~ Revoke the suspension of sentence or period of
7 probation; and

8 (2) ~~Sentencing~~ Sentence the ~~defendant~~ person to incarceration in
9 the Department of Correction.

10 ~~(e)(e)~~ If the suspension of sentence or probation of a ~~defendant~~
11 person is subsequently revoked and the ~~defendant~~ person is sentenced to a
12 term of imprisonment, any period of time actually spent in confinement due to
13 the original revocation shall be credited against the subsequent sentence.

14 (f) The location of the appropriate confining facility in which a
15 person serves a period of confinement for a technical conditions violation or
16 a serious conditions violation shall be determined by the Board of
17 Correction.

18 (g) Noncompliance with Department of Community Correction program
19 requirements or violent or sexual behavior while confined for a technical
20 conditions violation or serious conditions violation under this section may
21 result in revocation of the person's probation for a period of time exceeding
22 the limitations of subdivision (a)(4) of this section, up to and including
23 the time remaining on the person's original sentence.

24
25 SECTION 20. Arkansas Code § 16-93-310 is amended to read as follows:

26 16-93-310. Probation generally – Revocation – Community correction
27 program.

28 (a) When a person sentenced under a community correction program, § 5-
29 4-312, violates any terms or conditions of his or her sentence or term of
30 probation, revocation of the sentence or term of probation shall be
31 consistent with the procedures under this subchapter.

32 (b) Upon revocation, the court of jurisdiction shall determine whether
33 the offender shall remain under the jurisdiction of the court and be assigned
34 to a more restrictive community correction program, facility, or institution
35 for a period of time or committed to the Department of Community Correction.

36 (c)(1) If committed to the Department of Correction, the court shall

1 specify if the commitment is for judicial transfer of the offender to the
2 Department of Community Correction or is a regular commitment.

3 (2)(A) The court shall commit the eligible offender to the
4 custody of the Department of Correction under this subchapter for judicial
5 transfer to the Department of Community Correction subject to the following:

6 (i) That the sentence imposed provides that the
7 offender shall serve no more than ~~two (2)~~ three (3) years of confinement,
8 with credit for meritorious good time, with initial placement in a Department
9 of Community Correction facility; and

10 (ii) That the initial placement in the Department of
11 Community Correction is conditioned upon the offender's continuing
12 eligibility for Department of Community Correction placement and the
13 offender's compliance with all applicable rules ~~and regulations~~ established
14 by the Board of Corrections for community correction programs.

15 (B) Post-prison supervision shall accompany and follow
16 community correction programming when appropriate.

17
18 SECTION 21. Arkansas Code § 16-93-705, concerning the procedures of
19 parole revocation, is amended to add a new subsection to read as follows:

20 (h) A parolee whose parole is revoked under this section due to a
21 technical conditions violation or serious technical violation and is
22 sentenced to any period of incarceration resulting from that revocation is
23 subject to the periods of incarceration under § 16-93-715.

24
25 SECTION 22. Arkansas Code Title 16, Chapter 93, Subchapter 7, is
26 amended to add an additional section to read as follows:

27 16-93-715. Revocation – Technical conditions violations and serious
28 conditions violations.

29 (a)(1) If a parolee is subject to a parole revocation hearing under
30 this subchapter for a technical conditions violation or a serious conditions
31 violation, the parolee is subject to confinement for exactly the following
32 periods, subject to subdivision (a)(2)(A) of this section, before being
33 released and returned to parole supervision:

34 (A) Ninety (90) days' confinement for a technical
35 conditions violation; and

36 (B) One hundred eighty (180) days' confinement for a

1 serious conditions violation.

2 (2)(A) A period of confinement under subdivision (a)(1) of this
3 section may be reduced for good behavior and successful completion of the
4 technical violator program.

5 (B) A period of confinement shall not be reduced under
6 subdivision (a)(2)(A) of this section for more than fifty percent (50%) of
7 the total time of confinement ordered to be served.

8 (3) Any time in custody for which the person is held before a
9 period of confinement is ordered by the court under subdivision (a)(1) of
10 this section shall be:

11 (A)(i) Served in a facility maintained by the Department
12 of Community Correction or the Department of Correction.

13 (ii) Except for a person's initial detention under
14 this section or when an agreement has been reached between the county jail
15 and the Department of Community Correction or the Department of Correction
16 concerning the custody of an inmate awaiting a parole revocation hearing and
17 possible subsequent placement into a Department of Community Correction or a
18 Department of Correction facility, the person shall not serve a period of
19 confinement ordered under this section in a county jail, including any time
20 the parolee is awaiting a parole revocation hearing; and

21 (B) Credited to the overall period of confinement ordered
22 under subdivision (a)(1) of this section;

23 (b) After a parolee has been confined three (3) times under this
24 section for parole revocations under this subchapter, the parolee is subject
25 to having his or her full parole revoked for the next violation of his or her
26 parole.

27 (c) The location of the appropriate confining facility in which a
28 parolee serves a period of confinement under this section shall be determined
29 by the Board of Correction.

30 (d) Noncompliance with Department of Community Correction program
31 requirements or violent or sexual behavior while confined for a technical
32 conditions violation or serious conditions violation under this section may
33 result in revocation of the parolee's parole for a period of time exceeding
34 the limitations of subdivision (a)(1) of this section, up to and including
35 the time remaining on the person's original sentence.

36

1 SECTION 23. Arkansas Code § 20-47-101 is repealed as the process of
2 arrest and citation by a law enforcement officer is already addressed under
3 the Arkansas Rules of Criminal Procedure.

4 ~~20-47-101. Officers' duty to arrest insane and drunken persons.~~

5 ~~It shall be the duty of all peace officers to arrest any insane or~~
6 ~~drunken persons whom they may find at large and not in the care of some~~
7 ~~discreet person. The officer shall take him or her before some magistrate of~~
8 ~~the county, city, or town in which the arrest is made.~~

9
10 SECTION 24. Arkansas Code § 20-47-102 is repealed as the authority of
11 a law enforcement officer to initiate the commitment process for an
12 individual in circuit court already exists under Arkansas law.

13 ~~20-47-102. Officer's duty to make application to circuit court.~~

14 ~~Whenever any sheriff, coroner, or constable shall discover any person~~
15 ~~to be of unsound mind who resides in the county, it shall be his or her duty~~
16 ~~to make application to the circuit court for the exercise of its~~
17 ~~jurisdiction, and thereupon the like proceedings shall be had as directed in~~
18 ~~§ 20-47-103.~~

19
20 SECTION 25. Arkansas Code § 20-47-103 is repealed as the authority of
21 a law enforcement officer to initiate the commitment process for an
22 individual in circuit court already exists under Arkansas law.

23 ~~20-47-103. Mental health judicial inquiry.~~

24 ~~If any person shall give information in writing to the circuit court~~
25 ~~that any person in his or her county has a mental illness, as defined by the~~
26 ~~laws of this state, the circuit court, if satisfied that there is good cause~~
27 ~~for the exercise of its jurisdiction, shall follow the procedure for~~
28 ~~involuntary admission and treatment of the person with the mental illness, as~~
29 ~~set out in the laws of this state.~~

30
31 SECTION 26. Arkansas Code § 20-47-104 is repealed as the commitment
32 process for an individual in circuit court already exists under Arkansas law.

33 ~~20-47-104. Detention prior to commitment to hospital.~~

34 ~~The circuit court with venue and jurisdiction of a person whose~~
35 ~~involuntary admission is sought shall make such orders as may be necessary to~~
36 ~~keep that person in restraint until the person can be sent by due process of~~

1 ~~law to the Arkansas State Hospital.~~

2
3 SECTION 27. Arkansas Code § 20-47-105 is amended to read as follows:
4 20-47-105. Liability for costs of proceedings.

5 (a) ~~When any person shall be found to be in need of involuntary~~
6 ~~admission~~ an individual is detained or involuntarily admitted to a mental
7 health facility under the Behavioral Health Crisis Intervention Protocol Act
8 of 2017, § 20-47-801 et seq., or to the state’s mental health system, the
9 costs of proceedings shall be paid ~~out of his or her estate or, if that is~~
10 ~~insufficient, by the county~~ according to § 20-47-201 et seq.

11 (b)(1) If the ~~person~~ individual alleged to be in need of involuntary
12 admission to the state’s mental health system or who was detained under the
13 Behavioral Health Crisis Intervention Protocol Act of 2017, § 20-47-801 et
14 seq., is discharged without admission, the costs of proceedings shall be paid
15 by the person at whose instance the ~~proceeding was had~~ proceedings were held.
16 ~~unless the person is an officer acting officially under the provisions~~
17 ~~of § 20-47-102, in which case the costs shall be paid by the county.~~

18 (2) If the person at whose instance the proceedings were held is
19 a law enforcement officer acting under § 20-47-201 et seq., or under the
20 Behavioral Health Crisis Intervention Protocol Act of 2017, § 20-47-801 et
21 seq., the costs of proceedings shall be paid by the county.

22
23 SECTION 28. Arkansas Code § 20-47-106 is amended to read as follows:
24 20-47-106. Liability for support.

25 ~~Persons~~ A person legally liable for the support, care, or maintenance
26 ~~of a person~~ an individual in need of state mental health services ~~shall be~~
27 under this chapter is liable for the costs of ~~such~~ mental health services to
28 the extent that:

29 (1) The ~~person~~ individual in need of services lacks the ability
30 to pay;

31 (2) The mental health services are not covered by a policy of
32 insurance or other source of payment; and

33 ~~(2)(3)~~ (3) The legally liable person is able to pay.

34
35 SECTION 29. Arkansas Code § 20-47-107 is repealed.
36 ~~20-47-107. Recovery of money paid by county.~~

1 ~~In all cases of appropriations out of the county treasury for the~~
 2 ~~support and maintenance or confinement of any person who is in need of mental~~
 3 ~~health services, the amount thereof may be recovered by the county from any~~
 4 ~~parent, guardian, or custodian who by law is bound to provide for the support~~
 5 ~~and maintenance of the person who is in need of mental health services if~~
 6 ~~there is any parent, guardian, or custodian able to pay the amount.~~

7
 8 SECTION 30. Arkansas Code § 20-47-109 is amended to read as follows:
 9 20-47-109. Abuse of patients prohibited.

10 (a) ~~Employees~~ In addition to the protections provided to patients
 11 under the Adult and Long-Term Care Facility Resident Maltreatment Act, § 12-
 12 12-1701 et seq., employees, agents, servants, or officers of the Arkansas
 13 State Hospital are prohibited from striking, beating, abusing, intimidating,
 14 assaulting, or in any manner physically chastising any patient in the
 15 Arkansas State Hospital.

16 (b)(1) It ~~shall be~~ is the duty of all employees, agents, servants, or
 17 officers of the Arkansas State Hospital, upon learning of a violation of
 18 subsection (a) of this section, to immediately notify in writing the Director
 19 of the Arkansas State Hospital.

20 (2) Upon receiving a written report of a violation of this
 21 section, the director shall immediately investigate the incident and submit a
 22 report of the result of his or her findings to the Department of Human
 23 Services State Institutional System Board at ~~the~~ its next regular meeting
 24 ~~thereof.~~

25 (3) If the board finds the report to be true and finds that a
 26 violation of this section has occurred, the person ~~so violating~~ who violated
 27 this section shall be ~~forthwith~~ immediately dismissed from employment at the
 28 Arkansas State Hospital and ~~shall be forever ineligible~~ is no longer eligible
 29 for further employment ~~by the institution~~ with the Arkansas State Hospital.

30 (4) If the board ~~should determine,~~ after reading the report,
 31 determines that a violation of the state's criminal laws has occurred, ~~it~~ the
 32 board shall immediately submit the report to the prosecuting attorney.

33
 34 SECTION 31. Arkansas Code Title 20, Chapter 47, is amended to add an
 35 additional subchapter to comprise Arkansas Code §§ 20-47-801 – 20-47-812, to
 36 read as follows:

1 Subchapter 8 - Behavioral Health Crisis Intervention Protocol Act of 2017

2
3 20-47-801. Title.

4 This subchapter shall be known and may be cited as the "Behavioral
5 Health Crisis Intervention Protocol Act of 2017".

6
7 20-47-802. Legislative intent.

8 (a) It is the intent of the General Assembly to create an established
9 protocol for crisis intervention by law enforcement agencies and jail
10 personnel, the court system, hospitals, healthcare providers, and mental
11 health professionals to address the methods and procedures to be used by law
12 enforcement agencies and jail personnel, the court system, healthcare
13 providers, and mental health professionals in engaging with an individual who
14 demonstrates substantial likelihood of committing bodily harm against himself
15 or herself, or against another person, and who is an individual with a
16 behavioral health impairment, mental disability, mental illness, or other
17 permanent or temporary behavioral health or mental impairment.

18 (b) Further, it is the intent of the General Assembly that the
19 behavioral health crisis intervention protocol created under this subchapter
20 and established to address engagement with a member of the public who is an
21 individual with a behavioral health impairment results not in incarceration
22 or prosecution but in a lawful detention of the individual until his or her
23 behavioral health impairment is managed to the point that the individual is
24 substantially less likely to commit a criminal or otherwise dangerous act.

25
26 20-47-803. Definitions.

27 As used in this subchapter:

28 (1) "Activities of daily living" means without limitation:

- 29 (A) Ambulating;
- 30 (B) Transferring;
- 31 (C) Eating;
- 32 (D) Bathing;
- 33 (E) Dressing;
- 34 (F) Grooming; and
- 35 (G) Toileting;

36 (2)(A) "Behavioral health impairment" means a substantial

1 impairment of emotional processes, the ability to exercise conscious control
2 of one's actions, or the ability to perceive reality or to reason, when the
3 impairment is manifested by instances of extremely abnormal behavior or
4 extremely faulty perceptions that interfere with one (1) or more activities
5 of daily living.

6 (B) "Behavioral health impairment" may include a temporary
7 behavioral health or mental impairment that results when an individual is
8 under the influence of alcohol or a controlled substance to the extent that
9 the impairment is substantial to the point of meeting the definition under
10 subdivision (10)(A) of this section;

11 (3) "Catchment area" means a geographical area in which a
12 behavioral health crisis intervention team operates and is included in the
13 jurisdictional boundaries of the law enforcement agency that is a
14 participating partner;

15 (4) "Community mental health center" means an entity recognized
16 by the Division of Behavioral Health Services under § 20-46-301 et seq.;

17 (5) "Comprehensive psychiatric emergency service" means a
18 specialized psychiatric service operated by a single point of entry and
19 located in or near a hospital or other facility's emergency department that
20 can provide psychiatric emergency services for a period of time greater than
21 can be provided in the hospital or other facility's emergency department;

22 (6) "Crisis intervention protocol" means the implementation of
23 established methods and procedures, including the creation of a behavioral
24 health crisis intervention team and establishment of a crisis stabilization
25 unit, to address a criminal or otherwise dangerous act by a member of the
26 public who is an individual with a behavioral health impairment in a manner
27 that results in the management of the individual's behavioral health
28 impairment to the point that the individual is substantially less likely to
29 commit a criminal or otherwise dangerous act;

30 (7)(A) "Crisis intervention team" means a community partnership
31 among law enforcement agencies and jail personnel, healthcare providers, and
32 mental health professionals.

33 (B) A crisis intervention team also may include consumers
34 and family members of consumers;

35 (8) "Crisis intervention team officer" means a law enforcement
36 officer who is;

1 (A) Authorized to make arrests under the laws of this
2 state;

3 (B) Trained and certified in behavioral health crisis
4 intervention by law enforcement under § 12-9-118; and

5 (C) Employed by a law enforcement agency that is a
6 participating partner in a crisis intervention team;

7 (9) "Crisis stabilization unit" means a public or private
8 facility operated by or used by a behavioral health crisis intervention team
9 in the administration of a behavioral health crisis intervention protocol;

10 (10) "Extended observation bed" means a bed that is used by a
11 comprehensive psychiatric emergency service that is licensed by the
12 Department of Health for the purpose of providing comprehensive psychiatric
13 emergency services;

14 (11) "Participating partner" means a law enforcement agency, a
15 community mental health center, a consumer, a crisis stabilization unit, a
16 mental health services provider, mental health professional, or a hospital
17 that has entered into the collaborative agreement required under § 20-47-805
18 to implement a crisis intervention protocol;

19 (12) "Psychiatric emergency services" means services provided by
20 mental health professionals that are designed to reduce the acute psychiatric
21 symptoms of an individual with a behavioral health impairment as defined
22 under subdivision (10) of this section and, when possible, to stabilize that
23 individual so that continuing treatment can be provided in the individual's
24 community;

25 (13) "Psychiatric nurse practitioner" means a registered nurse
26 licensed and certified by the Arkansas State Board of Nursing as an advanced
27 practice nurse under the title of "Clinical Nurse Practitioner" or "Clinical
28 Nurse Specialist" who:

29 (A) Has completed at least one (1) year of advanced
30 practice nursing as a clinical nurse practitioner or clinical nurse
31 specialist; and

32 (B) Is working under the supervision of a physician at a
33 single point of entry;

34 (14) "Psychiatric physician assistant" means a physician
35 assistant licensed by the Arkansas State Medical Board who:

36 (A) Has completed at least one (1) year of practice as a

1 physician assistant employed by a community mental health center; and

2 (B) Is working under the supervision of a physician at a
3 single point of entry;

4 (15)(A) "Single point of entry" means a hospital, community
5 mental health center, or other healthcare facility that is a participating
6 partner in a crisis intervention team and that has agreed to provide
7 psychiatric emergency services and triage and referral services.

8 (B) A "single point of entry" is considered a crisis
9 stabilization unit for the purposes of this subchapter;

10 (16) "Substantial likelihood of bodily harm" means:

11 (A) That an individual:

12 (i) Has threatened or attempted to commit suicide or
13 to inflict serious bodily harm against himself or herself;

14 (ii) Has threatened or attempted to commit homicide
15 or other violent behavior;

16 (iii) Has placed another person in reasonable fear
17 of serious bodily harm; or

18 (iv) Is unable to avoid severe impairment or injury
19 from a specific risk; and

20 (B) There is substantial likelihood that serious bodily
21 harm will occur unless the individual is provided psychiatric emergency
22 services and treatment; and

23 (17) "Triage and referral services" means services designed to
24 provide evaluation of an individual with a behavioral health impairment as
25 defined under subdivision (10)(A) of this section in order to direct that
26 individual to a community mental health center, mental health facility,
27 hospital, or other mental health services provider that can provide
28 appropriate treatment.

29
30 20-47-804. Crisis intervention protocol not exclusive – Voluntary stay
31 at crisis stabilization unit.

32 (a) If during or after the initiation of a crisis intervention
33 protocol under this subchapter a mental health professional or medical
34 professional believes the individual being detained would benefit more from a
35 longer commitment in a residential facility, the mental health professional
36 or medical professional may institute commitment proceedings as authorized

1 under § 20-47-201 et seq.

2 (b) If a commitment proceeding is initiated under § 20-47-201 et seq.
3 in the circuit court, that proceeding shall control and any custodial
4 detention or treatment as part of a crisis intervention protocol initiated
5 under this subchapter shall cease in lieu of any commitment or treatment
6 ordered by the circuit court.

7 (c)(1) A crisis intervention protocol may be ended before the maximum
8 detention time of seventy-two (72) hours has elapsed, as described under §
9 20-47-810, by the law enforcement agency who has custody of the individual at
10 its discretion if:

11 (A) The individual in custody under this subchapter agrees
12 to remain at the crisis stabilization unit voluntarily;

13 (B) The detaining law enforcement agency reasonably
14 believes that that individual would not be a danger to himself or to others
15 if he or she remained at the crisis stabilization unit voluntarily; and

16 (C) The crisis stabilization unit agrees to allow the
17 individual to remain at the crisis stabilization unit.

18 (2)(A) An individual who is released from custody and remains at
19 a crisis stabilization unit voluntarily under this subsection is free to
20 leave the crisis stabilization unit at any time.

21 (B) A crisis stabilization unit may discharge an
22 individual who is released from custody and remains at the crisis
23 stabilization unit voluntarily at its discretion.

24
25 20-47-805. Establishment of crisis intervention teams.

26 (a) As part of a crisis intervention protocol established under this
27 subchapter, a law enforcement agency or community mental health center, as a
28 participating partner, is authorized to establish a crisis intervention team
29 or multiple crisis intervention teams to provide psychiatric emergency
30 services and triage and referral services for individuals with a behavioral
31 health impairment who demonstrate substantial likelihood of committing bodily
32 harm against themselves or against another person as a more humane
33 alternative to confinement in a jail.

34 (b) A crisis intervention team shall have at least one (1) designated
35 hospital or community mental health center within the specified catchment
36 area that has agreed to serve as a single point of entry and to provide

1 psychiatric emergency services, triage and referral services, and other
2 appropriate medical services for individuals in the custody of a crisis
3 intervention team officer or who have been referred by the community mental
4 health center within the specified catchment area.

5 (c)(1) As a participating partner and serving as a single point of
6 entry, a hospital, community mental health center, or mental health facility
7 may establish a comprehensive psychiatric emergency service to provide
8 psychiatric emergency services to an individual with a behavioral health
9 impairment for a period of time greater than allowed in a hospital or other
10 facility's emergency department when, in the opinion of the treating
11 physician, psychiatric nurse practitioner, or psychiatric physician
12 assistant, the individual is likely to be stabilized within seventy-two (72)
13 hours so that continuing treatment can be provided in the local community
14 rather than a crisis stabilization unit or the Arkansas State Hospital.

15 (2)(A) During the time an individual with a behavioral health
16 impairment is under a crisis intervention protocol and detained at a single
17 point of entry or at a crisis stabilization unit, the individual is
18 considered to be in the custody of the law enforcement agency that detained
19 the individual.

20 (B) This subchapter does not authorize the forfeit of any
21 state or federal constitutional right regarding the detention and custody of
22 an individual with a behavioral health impairment who has been detained or
23 placed in custody due to the commission of a criminal offense.

24 (d)(1) Two (2) or more governmental entities may jointly provide
25 crisis intervention teams and comprehensive psychiatric emergency services
26 authorized under this subchapter.

27 (2) For the purpose of addressing unique rural service delivery
28 needs and conditions, the Department of Human Services may authorize two (2)
29 or more hospitals, community mental health centers, or mental health services
30 providers to collaborate in the development of crisis intervention teams and
31 comprehensive psychiatric emergency services and shall facilitate any
32 collaboration authorized.

33
34 20-47-806. Crisis intervention protocol – Collaborative agreements.

35 (a) A proposed crisis intervention protocol and crisis intervention
36 team shall include necessary collaborative agreements among the participating

1 hospitals, community health centers, mental health service providers,
2 participating law enforcement agencies, and the facility that is designated
3 as the single point of entry for the crisis intervention team catchment area.

4 (b)(1) A collaborative agreement under subsection (a) of this section
5 shall specify that the facility designated under the collaborative agreement
6 as the single point of entry is required to accept any individual who is in
7 the custody of or detained by a crisis intervention team officer operating
8 within the catchment area, whether in the field or at a local detention
9 facility, if the individual has been taken into custody or is detained
10 because the individual demonstrates the substantial likelihood of committing
11 bodily harm against himself or herself or against another person.

12
13 20-47-807. Single point of entry – Operations.

14 (a)(1) The internal operation of a single point of entry shall be
15 governed by the administration of a facility designated as the single point
16 of entry and regulated by the Department of Human Services, the Arkansas
17 State Medical Board, and other state and federal agencies that have
18 regulatory authority over facilities.

19 (2) All collaborative agreements under § 20-47-806(a) shall be
20 in compliance with the regulatory authorities under subdivision (a)(1) of
21 this section.

22 (b)(1) A facility operating as a single point of entry under a crisis
23 intervention protocol shall appoint a medical director to oversee the
24 operation of the facility-based service.

25 (2) The medical director shall assure that the services provided
26 are within the guidelines established by the collaborative agreements under §
27 20-47-806(a).

28 (c) Notwithstanding any other provision of law, this subchapter does
29 not create an entitlement for any individual to receive psychiatric emergency
30 services at a single point of entry.

31
32 20-47-808. Determination of need to initiate crisis intervention
33 protocol.

34 (a)(1) If a crisis intervention team officer determines that an
35 individual with a behavioral health impairment demonstrates a substantial
36 likelihood of committing bodily harm to himself or herself or to another

1 person, the crisis intervention team officer may take the individual into
2 custody for the purpose of transporting the individual to the designated
3 single point of entry serving the catchment area in which the officer has
4 jurisdiction.

5 (2) The crisis intervention team officer shall certify in
6 writing the reasons for taking the individual into custody.

7 (b)(1) Only a crisis intervention team officer with jurisdictional
8 authority to operate within a catchment area may bring a person in custody to
9 the single point of entry for that catchment area.

10 (2) A law enforcement officer working outside the designated
11 catchment area is not authorized to transport an individual into the
12 catchment area for the purpose of bringing that individual to the single
13 point of entry.

14 (c)(1) An individual transported by a crisis intervention team officer
15 to the single point of entry or a individual referred by the community mental
16 health center under the guidelines of a collaborative agreement under § 20-
17 47-806(a) shall be examined by a physician, psychiatric nurse practitioner,
18 or psychiatric physician assistant.

19 (2) If the individual does not consent to voluntary evaluation
20 and treatment and the physician, psychiatric nurse practitioner, or
21 psychiatric physician assistant determines that the individual is an
22 individual with a behavioral health impairment, the physician, psychiatric
23 nurse practitioner, or psychiatric physician assistant shall then determine
24 if that individual may be held under the crisis intervention protocol as set
25 out in this subchapter.

26 (3) If the physician, psychiatric nurse practitioner, or
27 psychiatric physician assistant determines that the individual demonstrates a
28 substantial likelihood of committing bodily harm against himself or herself
29 or against another person because of a behavioral health impairment caused by
30 alcohol or a controlled substance and that there is no reasonable less
31 restrictive alternative, the individual may be held at the single point of
32 entry until the behavioral health impairment has resolved and the individual
33 no longer demonstrates a substantial likelihood of committing bodily harm to
34 himself or herself or against another person.

35
36 20-47-809. Implementation of psychiatric emergency services.

1 (a)(1) To implement psychiatric emergency services under a crisis
2 intervention protocol under this subchapter, a single point of entry shall
3 request licensure from the Department of Human Services for the number of
4 extended observation beds that are required to adequately serve the
5 designated catchment area.

6 (2) A license for the requested extended observation beds is
7 required before the single point of entry may put the extended observation
8 beds into service for patients.

9 (b) If the Department of Human Services determines that psychiatric
10 emergency services under this subchapter are adequate to provide for the
11 privacy and safety of all patients receiving services in the single point of
12 entry, the Department of Human Services may approve the location of one (1)
13 or more of the extended observation beds within another area of the single
14 point of entry rather than in proximity to the emergency department.

15 (c) Each psychiatric emergency service shall provide or contract to
16 provide qualified physicians, psychiatric nurse practitioners, psychiatric
17 physician assistants, and ancillary personnel necessary to provide services
18 twenty-four (24) hours per day, seven (7) days per week.

19 (d)(1) A psychiatric emergency service provided by a single point of
20 entry shall have at least one (1) physician, one (1) psychiatric nurse
21 practitioner, or one (1) psychiatric physician assistant who is a member of
22 the staff of the single point of entry and who is on duty and available at
23 all times.

24 (2) However, the medical director of the psychiatric emergency
25 service may waive the requirement under subdivision (d)(1) of this section if
26 provisions are made for:

27 (A) A physician in the emergency department to assume
28 responsibility and provide initial evaluation and treatment of an individual
29 with a behavioral health impairment in the custody of a crisis intervention
30 team officer or referred by the community mental health center; and

31 (B) The physician, psychiatric nurse practitioner, or
32 psychiatric physician assistant on call for the psychiatric emergency service
33 to evaluate the individual with a behavioral health impairment is onsite
34 within thirty (30) minutes of notification that the individual has arrived.

35
36 20-47-810. Seventy-two-hour maximum time of detention.

1 (a) An individual with a behavioral health impairment who is admitted
2 to a psychiatric emergency service under a crisis intervention protocol under
3 this subchapter shall have a final disposition within a maximum of seventy-
4 two (72) hours or be released from custody.

5 (b) If the individual with a behavioral health impairment cannot be
6 stabilized within seventy-two (72) hours of entering into a crisis
7 intervention protocol, a participating partner may institute commitment
8 proceedings as authorized under § 20-47-201 et seq.

9 (c) An individual who has been released from custody and has chosen to
10 stay at a crisis stabilization unit voluntarily under § 20-47-804(c) is not
11 bound by the seventy-two-hour maximum time of detention under this section.

12
13 20-47-811. Immunity from liability.

14 A person acting in good faith in connection with the detention of an
15 individual with a behavioral health impairment under the crisis intervention
16 protocol as set out in this subchapter is immune from civil or criminal
17 liability for those acts.

18
19 20-47-812. Development of crisis intervention protocols.

20 (a)(1) A director of a community mental health center shall actively
21 encourage hospitals, community mental health centers, mental health services
22 providers, and other mental health professionals to develop psychiatric
23 emergency services.

24 (2) If a collaborative agreement can be negotiated with a
25 hospital, community mental health center, or other healthcare facility that
26 can provide a comprehensive psychiatric emergency service, that hospital,
27 community mental health center, or other healthcare facility shall be given
28 priority when designating the single point of entry.

29 (b) The Department of Human Services shall encourage community mental
30 health center directors to actively work with hospitals, mental health
31 services providers, other mental health professionals, and law enforcement
32 agencies to develop a crisis intervention protocol and associated crisis
33 intervention teams and psychiatric emergency services and shall facilitate
34 the development of those collaborations.