

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: S2/13/17 S2/16/17*

2 91st General Assembly

A Bill

3 Regular Session, 2017

SENATE BILL 136

4

5 By: Senator J. Hutchinson

6 *By: Representatives Tucker, Shepherd*

7

8

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 *PROVIDE FOR* THE ELECTRONIC COLLECTION OF DATA TO BE
18 USED BY LAW ENFORCEMENT AGENCIES; CONCERNING THE
19 METHODS AND PROCEDURES USED BY LAW ENFORCEMENT, JAIL
20 PERSONNEL, AND MENTAL HEALTH SERVICE PROVIDERS AND
21 PROFESSIONALS USED IN ENGAGING AN INDIVIDUAL WITH A
22 MENTAL HEALTH IMPAIRMENT; TO PROMOTE ALL LAW
23 ENFORCEMENT OFFICERS TO COMPLETE CONTINUED EDUCATION
24 AND TRAINING IN MENTAL HEALTH CRISIS INTERVENTION AND
25 CRISIS INTERVENTION PROTOCOL; TO CREATE THE
26 BEHAVIORAL HEALTH CRISIS INTERVENTION PROTOCOL ACT OF
27 2017; TO REPEAL SECTIONS OF THE ARKANSAS CODE
28 SUPERSEDED BY THE COMMITMENT AND TREATMENT PROCESS
29 UNDER § 20-47-201 ET SEQ.; AND FOR OTHER PURPOSES.

30

31

32

Subtitle

33 TO CREATE THE CRIMINAL JUSTICE EFFICIENCY
34 AND SAFETY ACT OF 2017.

35

36



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

2
3 SECTION 1. Arkansas Code § 5-4-303, concerning conditions of
4 suspension or probation, is amended to add a new subsection to read as
5 follows:

6 (h)(1) If the court places a defendant on probation, the court shall
7 make as a term or condition of the defendant's probation that he or she is
8 subject to an administrative probation sanction conducted by the Department
9 of Community Correction under § 16-93-315.

10 (2) A person sentenced prior to the effective date of this act
11 that is on probation under this section has the option to be sanctioned
12 administratively under this section if the person chooses to waive his or her
13 right to a probation revocation hearing in circuit court.

14
15 SECTION 2. Arkansas Code § 5-4-312 is amended to read as follows:
16 5-4-312. Presentence investigation – Placement in a community
17 correction program.

18 (a)(1) A court may require that either a presentence investigation be
19 conducted by either the probation officer or presentence investigation
20 officer assigned to the court or that the defense counsel of a defendant, the
21 prosecuting attorney, a probation officer, and other persons whom the court
22 believes have information relevant to the sentencing of the defendant submit
23 to the court the information in writing prior to sentencing.

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

28 (b) Upon a preliminary determination by a court that a defendant is an
29 eligible offender and that placement in a community correction program under
30 § 16-93-1201 et seq. is proper, the court may:

31 (1)(A) Suspend the imposition of the sentence or place the
32 defendant on probation, under §§ 5-4-104, § 5-4-201 et seq., § 5-4-301 – 5-4-
33 307, and § 16-93-314.

34 (B) A sentence under subdivision (b)(1)(A) of this section
35 may be accompanied by assignment to a community correction program under §
36 16-93-1201 et seq. for a designated period of time commensurate with the

1 goals of the community correction program assignment and the rules
2 established by the Board of Corrections for the operation of community
3 correction programs.

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

8 (D)(i) If a person sentenced under subdivision (b)(1)(A)
9 of this section violates any term or condition of his or her sentence or term
10 of probation, revocation of the sentence or term of probation shall be
11 consistent with the procedures established by law for the revocation of
12 suspended imposition of sentence or probation.

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

18 (iii) If the defendant is committed to the
19 Department of Correction under subdivision (b)(1)(D)(ii) of this section, the
20 court shall specify if the commitment is for judicial transfer of the
21 ~~offender~~ defendant to the Department of Community Correction or is a
22 commitment to the Department of Correction; ~~or~~

23 (2)(A) Commit the defendant to the custody of the Department of
24 Correction for judicial transfer to the Department of Community Correction
25 subject to the following:

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

30 (ii) That the ~~initial~~ preliminary placement in the
31 Department of Community Correction facility is conditioned upon the
32 Department of Community Correction's final determination of the defendant's
33 initial and continuing eligibility for Department of Community Correction
34 placement and the defendant's compliance with all applicable rules
35 established by the ~~board~~ Board of Corrections for community correction
36 programs.

1 (B) Post-prison supervision of the defendant shall
2 accompany and follow the community correction program when appropriate; or

3 (3)(A) Sentence the defendant to the Department of Correction,
4 granting the Department of Correction the ability to administratively
5 transfer the defendant to the Department of Community Correction if the
6 Department of Correction determines that the sentence imposed meets the
7 eligibility requirements for placement in a community correction program
8 under this subchapter and § 16-93-1201 et seq.

9 (B) Administrative transfer to the Department of Community
10 Correction under subdivision (b)(3)(A) of this section is conditioned upon
11 bed space availability and upon the Department of Community Correction's
12 final determination of the defendant's initial and continuing eligibility for
13 Department of Community Correction placement.

14 (C) A determination of ineligibility under subdivision
15 (b)(3)(A) of this section by the Department of Community Correction shall
16 result in the immediate return of the defendant to the Department of
17 Correction.

18 (D) A decision to release a defendant administratively
19 transferred to the Department of Community Correction from the Department of
20 Correction under subdivision (b)(3)(A) of this section is vested solely with
21 the Parole Board.

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

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

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

35
36 SECTION 3. Arkansas Code Title 6, Chapter 64, Subchapter 12, is

1 ~~repealed due to duplicate codification in Title 12.~~

2 ~~6-64-1201. Definitions.~~

3 ~~As used in this subchapter:~~

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

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

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

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

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

22
23 ~~6-64-1202. Law Enforcement Training Committee — Creation — Duties.~~

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

25 ~~(1) Identify mental health training needs for law enforcement~~
26 ~~officers; and~~

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

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

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

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

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

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

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

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

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

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

3 ~~(e) The training and delivery strategies may consist of:~~

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

6 ~~(2) Advanced level training for law enforcement officers and~~
7 ~~jail personnel that is designed to enhance the effectiveness of the response~~
8 ~~of law enforcement officers and jail personnel to persons with mental~~
9 ~~illnesses;~~

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

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

17 ~~(5) A train-the-trainer model so that mental health training can~~
18 ~~be provided in each county jail at frequent and regular intervals as needed~~
19 ~~by a local person who has received formal training through curricula~~
20 ~~developed under this subchapter.~~

21 ~~(d) Crisis Intervention Teams shall be:~~

22 ~~(1) Supported by state funding; and~~

23 ~~(2) Provided initial assistance in organization.~~

24 ~~(e)(1) Local police departments and sheriff departments may apply to~~
25 ~~the Criminal Justice Institute for crisis intervention training under this~~
26 ~~subchapter.~~

27 ~~(2) The Crisis Intervention Team training curriculum development~~
28 ~~and delivery under subdivision (e)(3) of this section shall be supported by~~
29 ~~state funding.~~

30 ~~(f)(1) A graduate of the Crisis Intervention Team training shall~~
31 ~~provide the local department in which he or she serves with information and~~
32 ~~materials obtained at the crisis intervention training.~~

33 ~~(2)(A) Each department that sends law enforcement officers to~~
34 ~~receive Crisis Intervention Team training shall convene a meeting at least~~
35 ~~annually to review and improve the program in the department.~~

36 ~~(B) The meeting shall include without limitation~~

1 ~~representatives of:~~

2 ~~(i) Local behavioral health service providers;~~

3 ~~(ii) Community mental health centers within the~~
4 ~~jurisdiction of the departments;~~

5 ~~(iii) Consumers;~~

6 ~~(iv) Courts;~~

7 ~~(v) The National Alliance on Mental Illness; and~~

8 ~~(vi) Local institutions of higher education,~~

9 ~~including without limitation, the University of Arkansas for Medical Sciences~~
10 ~~and the Regional Centers of the University of Arkansas for Medical Sciences.~~

11 ~~(g) The goal of the Crisis Intervention Team training program is to~~
12 ~~establish a collaborative effort between law enforcement officers and jail~~
13 ~~personnel and the community to provide appropriate services to persons with~~
14 ~~mental illnesses who come into contact with the law enforcement system.~~

15
16 SECTION 4. The title of the subchapter for Arkansas Code Title 10,
17 Chapter 3, Subchapter 28, is amended to read as follows:

18 ~~Subchapter 28 – Legislative Criminal Justice Oversight Task Force~~ Task Forces
19 Concerning Criminal Justice

20
21 SECTION 5. Arkansas Code Title 10, Chapter 3, Subchapter 28, is
22 amended to add an additional section to read as follows:

23 10-3-2802. Interagency Task Force for the Implementation of Criminal
24 Justice Prevention Initiatives.

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

27 (B) The purpose of the task force is to coordinate the
28 implementation of initiatives and strategies designed to promote efficiency
29 and safety in the criminal justice system as well as promote justice
30 reinvestment goals.

31 (2) The Governor's office shall provide staff support for the
32 task force.

33 (b) The task force shall be composed of the following sixteen (16)
34 members, as follows:

35 (1) Six (6) members shall be appointed by the Governor:

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

1 (B) One (1) member who is a district court judge;

2 (C) One (1) member who is a county sheriff;

3 (D) One (1) member who is a county judge;

4 (E) One (1) member who is appointed by and who represents
5 the Governor; and

6 (F) One (1) member who is a prosecuting attorney;

7 (2) Two (2) members of the Senate appointed by the President Pro
8 Tempore of the Senate;

9 (3) Two (2) members of the House of Representatives appointed by
10 the Speaker of the House of Representatives;

11 (4) One (1) member appointed by the Director of the Department
12 of Human Services who represents the Division of Behavioral Health Services
13 of the Department of Human Services;

14 (5) The Chair of the Board of Corrections or his or her
15 designee;

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

17 (7) The Director of the Department of Correction or his or her
18 designee;

19 (8) The Director of the Department of Community Correction or
20 his or her designee; and

21 (9) The Attorney General or his or her designee.

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

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

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

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

32 (1) To track the implementation of and evaluate compliance with
33 this act;

34 (2) To review performance and outcome measure reports submitted
35 semiannually by the Department of Correction, Department of Community
36 Correction, Parole Board, Board of Corrections, Arkansas Sentencing

1 Commission, and Specialty Court Program Advisory Committee under this act and
2 evaluate the impact;

3 (3) To develop quality assurance reporting on the implementation
4 of policies and the expenditure of resource investments related to the
5 justice reinvestment policies and reinvestments; and

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

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

12 (e) Members of the task force shall receive no pay for their services,
13 but each member may receive expense reimbursement in accordance with § 25-16-
14 901 et seq.

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

16
17 SECTION 6. Arkansas Code Title 12, Chapter 6, is amended to add an
18 additional subchapter to read as follows:

19 Subchapter 6 – Local Criminal Justice Coordinating Committees

20
21 12-6-601. Local criminal justice coordinating committees.

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

26 (b) The General Assembly encourages the establishment of local
27 criminal justice coordinating committees composed of local judges, local
28 corrections officials, the prosecuting attorney, law enforcement officials,
29 county officials, medical professionals, and mental health professionals.

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

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

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

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

4
5 SECTION 7. Arkansas Code Title 12, Chapter 9, Subchapter 1, is amended
6 to add an additional section to read as follows:

7 12-9-118. Behavioral health crisis intervention training.

8 (a)(1) In accordance with the certification requirements of the
9 Arkansas Commission on Law Enforcement Standards and Training for law
10 enforcement officers, a law enforcement officer enrolled in a commission-
11 certified basic police training academy shall complete at least sixteen (16)
12 hours of training relating to behavioral health crisis intervention in a law
13 enforcement context.

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

16 (b) Training under subsection (a) of this section shall include
17 without limitation:

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

19 (A) With a behavioral health impairment as defined in §
20 20-47-803;

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

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

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

28 (2) Available mental health service providers and support
29 services;

30 (3) The voluntary and involuntary commitment process;

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

33 (5) Practices to promote the safety of law enforcement officers
34 and the public.

35 (c) The commission shall certify:

36 (1) Specialized training for qualified law enforcement officers

1 of at least eight (8) hours; and

2 (2)(A) Crisis intervention team training of at least forty (40)
3 hours taught over five (5) consecutive days.

4 (B) Crisis intervention team training under subdivision
5 (c)(2)(A) of this section shall emphasize understanding of behavioral
6 impairments and mental illnesses and shall incorporate the development of
7 communication skills, practical experience, and role-playing.

8 (C) Participants in the crisis intervention under
9 subdivision (c)(2)(A) of this section shall be introduced to mental health
10 professionals, consumers, and family members in both the classroom and
11 through onsite visits.

12 (d)(1) A local law enforcement agency, including a county sheriff's
13 office, but not a municipal law enforcement agency that employs less than ten
14 (10) full-time law enforcement officers, shall employ at least one (1) law
15 enforcement officer who has completed within eighteen (18) months of the
16 effective date of this act the crisis intervention team training as described
17 under subdivision (c)(2) of this section.

18 (2) A local law enforcement agency, including a county sheriff's
19 office, is encouraged to:

20 (A) Have at least twenty percent (20%) of the certified
21 law enforcement officers that it employs complete the crisis intervention
22 team training offered under subdivision (c)(2) of this section;

23 (B) To develop and implement a model policy addressing law
24 enforcement response to persons affected by a behavioral impairment; and

25 (C) Establish a clearly defined and sustainable
26 partnership with one (1) or more community mental health organizations.

27 (e) All training required under this section and the curriculum for
28 the training shall be developed by the commission in collaboration with the
29 Criminal Justice Institute of the University of Arkansas System.

30
31 SECTION 8. Arkansas Code § 12-11-110 is repealed as the process of
32 arrest and citation by a law enforcement officer is already addressed under
33 the Arkansas Rules of Criminal Procedure.

34 ~~12-11-110. Drunken, insane, and disorderly persons.~~

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

1 ~~person.~~

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

5 12-12-219. Records of local and regional detention facilities.

6 (a)(1) The Arkansas Crime Information Center shall permit and
7 encourage the entry of data by a local or regional detention facility, such
8 as a county jail, into a database maintained by the center and accessible by
9 an entity as determined by the Supervisory Board of the Arkansas Crime
10 Information Center.

11 (2) Data provided by a regional detention facility shall
12 facilitate analysis of inmate populations in local detention facilities
13 including, but not limited to:

14 (A) Local or regional detention facility inmate
15 population, including the number of inmates currently housed over the
16 recognized maximum capacity of the local or regional detention facility; and

17 (B) The types and number of offenses for which the inmates
18 are being housed in the local or regional detention facility.

19 (b) The types of data entered into a database under this section may
20 include:

21 (1) Information concerning the inmates admitted to and released
22 from the local or regional detention facility, including without limitation:

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

24 (B) The offenses the inmates committed or were accused of
25 committing; and

26 (C) The dates the inmates were both taken into custody and
27 released;

28 (2)(A) A record of any mental health screening of an inmate
29 administered by a law enforcement agency or healthcare facility.

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

33 (3) Any other data that that would be of assistance to a law
34 enforcement agency, state agency, legislative committee, academic researcher,
35 or other entity permitted to access the data.

36 (c) The center shall promulgate rules necessary to implement this

1 section.

2
3 SECTION 10. Arkansas Code § 12-27-127 is amended to read as follows:

4 12-27-127. Transfer to the Department of Community Correction =
5 Transfer of an inmate between departments.

6 (a) ~~Unless a commitment specifies that the inmate is to be judicially~~
7 ~~transferred to the Department of Community Correction, the~~ A ~~commitment shall~~
8 ~~be treated as a commitment to the Department of Correction and subject to~~
9 ~~regular transfer eligibility~~ unless:

10 (1) The commitment specifies that the inmate is to be judicially
11 transferred to the Department of Community Correction; or

12 (2) If the court indicates on the commitment that the Department
13 Correction shall administratively determine the transfer of an inmate, the
14 Department of Correction may administratively transfer a statutorily eligible
15 inmate to the Department of Community Correction in accordance with rules
16 promulgated by the Board of Corrections.

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

22 (2) The director may transfer an inmate from one ~~(1)~~ facility,
23 placement, program, or status to another facility, placement, program, or
24 status consistent with the commitment, applicable law, and in accordance with
25 treatment, training, and security needs.

26 (3)(A) An inmate may be administratively transferred back to the
27 Department of Correction from the Department of Community Correction by the
28 Parole Board following a hearing in which the inmate is found ineligible for
29 placement in a Department of Community Correction facility as he or she fails
30 to meet the criteria or standards established by law or policy adopted by the
31 Board of Corrections or has been found guilty of a violation of the rules of
32 the facility.

33 (B) Time served in a community correction facility or under
34 supervision by the Department of Community Correction shall be credited
35 against the sentence contained in the commitment to the Department of
36 Correction.

1 (c)(1) In accordance with rules and procedures promulgated by the
2 Board of Corrections, or except as otherwise prohibited by subdivision (c)(4)
3 of this section, upon receipt of a referral from the director or his or her
4 designee, the Parole Board may release from confinement an inmate who has
5 been:

6 (A) Sentenced and judicially or administratively
7 transferred to the Department of Community Correction;

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

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

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

14 (i) Aid the therapeutic rehabilitation of the inmates
15 judicially or administratively transferred to the Department of Community
16 Correction; and

17 (ii) More efficiently use the correctional resources
18 of the State of Arkansas.

19 (B) The power granted to the Parole Board under subdivision
20 (c)(1) of this section shall be the sole authority required for the
21 accomplishment of the purposes set forth in this subdivision (c)(2), and when
22 the Parole Board exercises its power under this section, it shall not be
23 necessary for the Parole Board to comply with general provisions of other
24 laws dealing with the minimum time constraints as applied to release
25 eligibility.

26 (3) This subsection does not grant the Parole Board or the
27 Department of Community Correction the authority either to detain an inmate
28 beyond the sentence imposed upon him or her by a transferring court or to
29 shorten that sentence.

30 (4) An inmate may not be released from confinement under this
31 section if the inmate was sentenced and judicially or administratively
32 transferred to the Department of Community Correction at a time earlier than
33 that which would otherwise be possible if the inmate was sentenced to the
34 Department of Correction, regardless of any program completed by the inmate.

35 (d)(1) An inmate of the Department of Correction who is to be released
36 on parole may be administratively transferred to the Department of Community

1 Correction when the inmate is within eighteen (18) months of his or her
2 projected release date for the purpose of participating in a reentry program
3 of at least six (6) months in length.

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

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

11 (A) Administratively transferred to the Department of
12 Community Correction; and

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

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

18 (A) Is denied parole; or

19 (B) Fails to complete or is removed from the reentry
20 program.

21
22 SECTION 11. Arkansas Code Title 12, Chapter 27, Subchapter 1, is
23 amended to add an additional section to read as follows:

24 12-27-148. Department of Community Correction – Sufficient staffing
25 guidelines.

26 For the purposes of maintaining a sufficiently trained and specialized
27 staff of probation and parole officers, the Department of Community
28 Correction shall establish staffing guidelines using evidence-based practices
29 to develop ratios between the number of high-risk, medium-risk, and low-risk
30 probationers and parolees and the probation officers and parole officers
31 assigned to the high-risk, medium-risk, and low-risk probationers and
32 parolees in order to maximize the effectiveness of the monitoring ability of
33 the probation officers and parole officers.

34
35 SECTION 12. Arkansas Code Title 12, Chapter 41, Subchapter 1, is
36 amended to add an additional section to read as follows:

1 12-41-108. Behavioral health and risk screening tool – Database entry.

2 A local correctional facility is encouraged to:

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

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

10
 11 SECTION 13. Arkansas Code § 16-90-803(a)(2), concerning the voluntary
 12 presumptive sentence standards, is amended to read as follows:

13 (2) The voluntary presumptive sentence for any offender ~~of~~ who
 14 committed a felony ~~committed~~ on or after January 1, 1994, may be determined
 15 by locating the appropriate cell of the sentencing standards grid.

16
 17 SECTION 14. Arkansas Code § 16-90-803(b)(3), concerning the voluntary
 18 presumptive sentence standards, is amended to read as follows:

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

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

23 (B) The voluntary presumptive fixed sentence for a felony
 24 conviction is found in the sentencing standards grid cell at the intersection
 25 of the column defined by the criminal history score and the row defined by
 26 the offense seriousness level.

27 (C) The statutory minimum or maximum ranges for a
 28 particular ~~crime~~ offense shall govern over a voluntary presumptive sentence
 29 if the voluntary presumptive sentence should fall below or above ~~such~~ the
 30 statutory minimum or maximum ranges.

31
 32 SECTION 15. Arkansas Code § 16-90-804 is amended to read as follows:

33 16-90-804. Departures from the ~~standards~~ voluntary presumptive
 34 sentencing range.

35 (a) ~~The trial~~ At a bench trial, a court may deviate depart from the
 36 voluntary presumptive sentence without sentence range determined under § 16-

1 90-803 in reliance on one (1) or more aggravating factors only by providing a
2 written justification in the record of:

3 (1) A listing of the charges and sentencing enhancements against
4 the offender as set out in the first charging instrument as well as any
5 additional charges or sentence enhancements subsequently added in the case,
6 if any; and

7 (2) A thorough recitation of the facts underlying the departure
8 from the voluntary presumptive sentence range under § 16-90-803.

9 (b)(1)(A) When sentencing is done by the judge following the entry of
10 a plea of guilty or nolo contendere or court following a trial before the
11 judge court, either party or both parties may present evidence to justify a
12 departure from the voluntary presumptive sentence range determined under §
13 16-90-803.

14 (B) The judge court may allow argument either during the
15 sentencing phase of a trial or at a separate hearing on the matter of
16 departing from the voluntary presumptive sentencing range determined under §
17 16-90-803 if he or she the court finds that ~~it~~ argument would be helpful.

18 (C)(i) When sentencing is done by the court following the
19 entry of a plea of guilty, nolo contendere, or a negotiated plea of guilty,
20 the court shall enter the sentence on the record.

21 (ii) After the court enters the sentence on the
22 record under subdivision (b)(1)(C)(i) of this section, the prosecuting
23 attorney shall provide in writing the credible reasons for a departure from
24 the voluntary presumptive sentencing range, if a departure from the voluntary
25 presumptive sentencing range is applicable.

26 (2)(A) If both ~~sides~~ parties agree on a recommended sentence,
27 the judge court may choose to accept or reject the agreement based upon the
28 facts of the case and whether ~~those~~ the facts support the voluntary
29 presumptive sentence range determined under § 16-90-803 or a departure
30 different from any recommendation.

31 (B)(i) If there is an agreed departure from the voluntary
32 presumptive sentence range under § 16-90-803, ~~written reasons shall be~~
33 ~~supplied by~~ the parties shall supply written reasons to the court to attach
34 to the ~~commitment~~ sentencing order and to ~~forward~~ report to the Arkansas
35 Sentencing Commission.

36 (ii) The written reasons required under subdivision

1 (b)(2)(B)(i) of this section shall include:

2 (a) A listing of the charges and sentencing
 3 enhancements against the offender as they were set out in the first charging
 4 instrument as well as any additional charges or sentence enhancements
 5 subsequently added in the case, if any; and

6 (b) A thorough recitation of the facts
 7 underlying the departure from the presumptive sentence range under § 16-90-
 8 803.

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

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

15 ~~(1) Mitigating Factors.~~

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

19 ~~(B)(i)~~ (i) While falling short of a defense, the person lack
 20 ~~substantial capacity for judgment because of physical or mental impairment~~

21 ~~(ii)~~ (ii) Voluntary use of drugs or alcohol does not fall
 22 ~~within this factor;~~

23 ~~(G)(2)~~ (2) The offender played a minor or passive role in the ~~crime~~
 24 commission of the current offense;

25 ~~(D)(3)~~ (3) Before detection, the offender compensated or made a good
 26 faith effort to compensate the victim for any damage or injury sustained by
 27 the victim;

28 ~~(E)(4)~~ (4) The current offense was principally accomplished by
 29 another person, and the offender manifested extreme caution or sincere
 30 concern for the safety or well-being of the victim;

31 ~~(F)(5)~~ (5) The offender or the offender's children suffered a
 32 continuing pattern of physical or sexual abuse by the victim of the current
 33 offense, and the current offense is a response to ~~that~~ the physical or sexual
 34 abuse;

35 ~~(G)(6)~~ (6) The ~~operation of the multiple offense policy~~ inclusion of
 36 multiple offenses in calculating the voluntary presumptive sentence range

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

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

8 ~~(I)(8)~~ Upon motion of the state stating that the ~~defendant~~
9 offender has made a good faith effort to provide substantial assistance to
10 the investigation or prosecution of another person who has committed an
11 offense, the circumstances listed below may be weighed as mitigating factors
12 with respect to the ~~defendant's~~ offender's offense:

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

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

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

20 (9)(A) Any other compelling reason.

21 (B) If any other compelling reason is used as a mitigating
22 factor under this subsection, additional details regarding the negotiated
23 plea, if applicable, and why the sentence was a downward departure from the
24 voluntary presumptive sentence shall be included.

25 ~~(2) Aggravating Factors.~~

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

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

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

1 ~~(G)~~(3) The current offense was a major economic offense or
2 series of offenses, ~~so~~ as identified by a consideration of any of the
3 following factors:

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

6 ~~(ii)~~(B) The current offense involved attempted or actual
7 monetary loss substantially greater than typical for the offense;

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

10 ~~(iv)~~(D)(i) The ~~defendant~~ offender used his or her position
11 of trust, confidence, or fiduciary responsibility to facilitate the
12 commission of the current offense.

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

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

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

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

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

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

35 (iii) The current offense involved a high degree of
36 sophistication or planning or occurred over a lengthy period of time or

1 involved a broad geographic area of disbursement;

2 (iv) The circumstances of the current offense reveal
3 the offender to have occupied a high position in the drug distribution
4 hierarchy;

5 (v) The offender used his or her position or status
6 to facilitate the commission of the current offense, including without
7 limitation positions of trust, confidence, or fiduciary relationships, ~~for~~
8 ~~example, such as~~ a pharmacist, physician, or other medical professional; or

9 (vi) The offender has received substantial income or
10 resources from his or her involvement in ~~drug~~ trafficking a controlled
11 substance;

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

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

18 (i) Employing or using, or threatening or attempting
19 to employ or use, a deadly weapon;

20 (ii) Being armed with a deadly weapon;

21 (iii) Possessing a deadly weapon;

22 (iv) Furnishing a deadly weapon; or

23 (v) Carrying a deadly weapon;

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

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

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

36 ~~(I)(9)~~ The current offense was a violent or sexual offense

1 committed in the victim's zone of privacy, ~~for example, his or her~~ including
 2 without limitation the victim's home or the curtilage thereof of the victim's
 3 home;

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

7 ~~(K)(11)~~ The current offense was committed for the purpose of
 8 avoiding or preventing an arrest or effecting an escape from custody; ~~or~~

9 ~~(L)(12)~~ In offenses related to vehicular homicides If the
 10 current offense is related to a vehicular homicide, the offender ~~does~~ did not
 11 have the minimum insurance required by law; and

12 (13)(A) Any other compelling reason.

13 (B) If any other compelling reason is used as an
 14 aggravating factor under this subsection, additional details regarding the
 15 negotiated plea, if applicable, and why the sentence was an upward departure
 16 from the voluntary presumptive sentence shall be included.

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

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

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

24
 25 SECTION 16. Arkansas Code § 16-93-101, concerning definitions for
 26 probation and parole, is amended to add additional subdivisions to read as
 27 follows:

28 (13) "Serious conditions violation" means a violation of the
 29 conditions of a parolee's parole or probationer's probation that results from
 30 an arrest for a misdemeanor offense that does not involve:

31 (A) An act involving a violent misdemeanor that provides
 32 the prosecuting attorney with the option to revoke the probationer's
 33 probation or parolee's parole, or allow the Department of Community
 34 Correction to utilize the sanctions provided under this chapter;

35 (B) An offense for which a conviction would require
 36 the person to register as a sex offender under the Sex Offender Registration

1 Act of 1997, § 12-12-901 et seq.;

2 (C) A misdemeanor offense of harassment or stalking or
 3 that contains threat of violence to a victim, or a threat of violence to a
 4 family member of the victim of the offense for which the defendant was placed
 5 on probation or parole; or

6 (D) A misdemeanor offense of driving or boating while
 7 intoxicated, § 5-65-103, when the probationer or parolee is currently being
 8 supervised for a felony offense of § 5-65-103, § 5-10-104, or § 5-10-105,
 9 when the felony offense was alcohol- or drug-related; and

10 (14) "Technical conditions violation" means:

11 (A) A violation of the conditions of a parolee's parole or
 12 a probationer's probation that results from a noncriminal act or positive
 13 drug screen; or

14 (B) The parolee or probationer absenting himself or
 15 herself from supervision.

16
 17 SECTION 17. Arkansas Code § 16-93-307(a)(1), concerning a person
 18 arrested for a violation of probation and subject to a probation revocation
 19 hearing, is amended to read as follows:

20 (a)(1) A Except for a defendant who is subject to or agrees to an
 21 administrative probation sanction under § 16-93-315, a defendant arrested for
 22 violation of suspension or probation is entitled to a preliminary hearing to
 23 determine whether there is reasonable cause to believe that he or she has
 24 violated a condition of suspension or probation.

25
 26 SECTION 18. Arkansas Code § 16-93-308 is amended to read as follows:

27 16-93-308. Probation generally – Revocation – Definition.

28 (a)(1) At any time before the expiration of a period of suspension of
 29 sentence or probation, a court may summon a defendant on probation or who is
 30 servng a suspended imposition of sentence to appear before ~~it~~ the court or
 31 may issue a warrant for the defendant's arrest.

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

33 (b)(1) At any time before the expiration of a period of suspension of
 34 sentence or probation, any law enforcement officer may arrest a defendant on
 35 probation or serving a suspended imposition of sentence without a warrant if
 36 the law enforcement officer has reasonable cause to believe that the

1 defendant:

2 (A) ~~has~~ Has failed to comply with a condition of his or
3 her suspension of sentence or probation; or

4 (B) Is exhibiting behavior that can be construed to be a
5 threat to:

6 (i) Abscond from supervision; or

7 (ii) Not comply with an intermediate sanction under
8 § 16-93-309(a)(4).

9 (2) If a defendant on probation is arrested by a probation
10 officer employed by the Department of Community Correction for a violation of
11 the defendant's probation and taken to a county jail for a reason listed
12 under subdivision (b)(1)(B) of this section, the state shall reimburse the
13 county for the costs of incarceration at the prevailing rate of
14 reimbursement.

15 (c)(1) A defendant arrested for violation of suspension of sentence or
16 probation shall be taken immediately before the court that suspended
17 imposition of sentence or, if the defendant was placed on probation, before
18 the court supervising the probation, or, if the defendant is subject to
19 administrative probation sanction under § 16-93-315, to the appropriate
20 authority in the Department of Community Correction if practicable or, if
21 transport to an appropriate authority of the Department of Community
22 Correction is not practicable, then to the county jail.

23 (2) If a defendant subject to administrative probation sanction
24 under § 16-93-315 is transported to a county jail, then the county shall be
25 reimbursed at the daily prevailing rate for the costs of incarceration.

26 (d) If a court finds by a preponderance of the evidence that the
27 defendant has inexcusably failed to comply with a condition of his or her
28 suspension of sentence or probation, the court may revoke the suspension of
29 sentence or probation at any time prior to the expiration of the period of
30 suspension of sentence or probation.

31 (e) A finding of failure to comply with a condition of suspension of
32 sentence or probation as provided in subsection (d) of this section may be
33 punished as contempt under § 16-10-108.

34 (f) A court may revoke a suspension of sentence or probation
35 subsequent to the expiration of the period of suspension of sentence or
36 probation if before expiration of the period:

1 (1) The defendant is arrested for violation of suspension of of
2 sentence or probation;

3 (2) A warrant is issued for the defendant's arrest for violation
4 of suspension of sentence or probation;

5 (3) A petition to revoke the defendant's suspension of sentence
6 or probation has been filed if a warrant is issued for the defendant's arrest
7 within thirty (30) days of the date of filing the petition; or

8 (4) The defendant has been:

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

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

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

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

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

24 (B) If an extension of suspension of sentence or probation
25 is made upon revocation, the court is not deprived of the ability to revoke
26 the suspension of sentence or probation again ~~should~~ if the defendant's
27 conduct again ~~warrant~~ warrants revocation.

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

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

36 (B) As used in this section, "good faith effort" means a

1 person:

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

6 (ii) Is registered for employment and enrolled and
7 participating in an employment-training program with the purpose of obtaining
8 gainful employment.

9 (i)(1)(A) Except as provided for in subdivision (i)(2) of this
10 section, if a defendant on probation is subject to a revocation hearing under
11 this subchapter or an administrative probation sanction under § 16-93-715 for
12 a technical conditions violation or a serious conditions violation, the
13 defendant on probation is subject to confinement according to the time
14 periods set out in § 16-93-309 without having his or her probation revoked.

15 (B)(i) After a defendant on probation has been confined
16 three (3) times under subdivision (i)(1)(A) of this section for a technical
17 conditions violation, the defendant on probation is subject to having his or
18 her probation revoked and being sentenced to the Department of Correction or
19 the Department of Community Correction for the next violation of his or her
20 probation.

21 (ii) After a defendant on probation has been
22 confined two (2) times under subdivision (i)(1)(A) of this section for a
23 serious conditions violation, the defendant on probation is subject to having
24 his or her probation revoked and being sentenced to the Department of
25 Correction or the Department of Community Correction for the next violation
26 of his or her probation.

27 (2)(A) A defendant is subject to having his or her probation
28 revoked under this section for a technical conditions violation or a serious
29 conditions violation without having been sanctioned for a period of
30 confinement set out under § 16-93-309 if the Department of Community
31 Correction or the prosecuting attorney determines that the defendant is
32 engaging in or has engaged in behavior that poses a threat to the community
33 and if upon petition to the court proves by a preponderance of the evidence
34 that the defendant has violated a condition or his or her probation.

35 (B) If a prosecuting attorney alleges a technical
36 conditions violation or a serious conditions violation under subdivision

1 (i)(2)(A) of this section, the court may revoke the defendant's probation and
2 sentence him or her to a period of time exceeding the time periods set out
3 under § 16-93-309(a)(4)(B).

4 (j) To the extent that a participant in a specialty court program is
5 subject to this section, any period of confinement ordered by the specialty
6 court is not subject to the accumulation of sanctions under subsection (i) of
7 this section.

8
9 SECTION 19. Arkansas Code § 16-93-309 is amended to read as follows:
10 16-93-309. Probation generally – Revocation hearing – Sentence
11 alternatives – Sanctions.

12 (a) Following a revocation hearing held under § 16-93-307 and in which
13 a defendant on probation or who is serving a suspended sentence has been
14 found guilty or has entered a plea of guilty or nolo contendere, the court
15 may:

16 (1) Continue the period of suspension ~~of imposition~~ of sentence
17 or continue the period of probation;

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

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

21 (4)(A) Impose a period of confinement to be served during the
22 period of suspension ~~of imposition~~ of sentence or period of probation; ~~or.~~

23 (B)(i) A period of confinement ordered under subdivision
24 (a)(4)(A) of this section resulting from a technical conditions violation or
25 serious conditions violation of probation shall be for the following periods,
26 subject to subsection (b) of this section and § 16-93-308(i)(2)(A), before
27 the defendant on probation is released and returned to probation:

28 (a) Up to ninety (90) days' confinement for a
29 technical conditions violation; and

30 (b) Exactly one hundred eighty (180) days'
31 confinement for a serious conditions violation.

32 (ii) Any time in custody for which the defendant is
33 held before a period of confinement is ordered by the court under subdivision
34 (a)(4)(A) of this section shall not be credited to the overall period of
35 confinement ordered under subdivision (a)(4) of this section.

36 (C) A ninety-day or one-hundred-eighty-day period of

1 confinement that the court may order under subdivision (a)(4) of this section
2 is not available to a person serving a suspended sentence; or

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

5 (b)(1) A period of confinement under subdivision (a)(4) of this
6 section may be reduced by the Department of Correction or the Department of
7 Community Correction for good behavior and successful program completion.

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

11 (3) A period of confinement under subdivision (a)(4) of this
12 section shall not be reduced by any time served by the defendant while he or
13 she awaits a court hearing to challenge the imposition of the sanction.

14 (c)(1) If a defendant is in custody awaiting a hearing under this
15 section for a technical conditions violation or a serious conditions
16 violation, the hearing shall be conducted as soon as practicable but for no
17 longer than thirty (30) business days of the date the defendant was taken
18 into custody.

19 (2) If a defendant on probation is in custody in a county jail
20 awaiting a hearing to challenge the imposition of a sanction under
21 subdivision (a)(4) of this section, the state shall reimburse the county for
22 the costs of incarceration at the prevailing rate of reimbursement.

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

27 (1) ~~Revoking~~ Revoke the suspension of sentence or period of
28 probation; and

29 (2) ~~Sentencing~~ Sentence the defendant to incarceration in the
30 Department of Correction.

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

35 (f) The location of the appropriate confining facility in which a
36 defendant serves a period of confinement for a technical conditions violation

1 or a serious conditions violation shall be determined by the Board of
2 Corrections.

3 (g) Noncompliance with program requirements approved by the Board of
4 Corrections or violent or sexual behavior while confined for a technical
5 conditions violation or serious conditions violation under this section may
6 result in revocation of the defendant's probation for a period of time
7 exceeding the limitations of subdivision (a)(4) of this section, up to and
8 including the time remaining on the defendant's original sentence.

9 (h) To the extent that a participant in a specialty court program is
10 subject to this section, any period of confinement ordered by the specialty
11 court is not subject to the periods of confinement required under subdivision
12 (a)(4) of this section.

13
14 SECTION 20. Arkansas Code § 16-93-310 is amended to read as follows:

15 16-93-310. Probation generally – Revocation – Community correction
16 program.

17 (a) When a person sentenced under a community correction program, § 5-
18 4-312, violates any terms or conditions of his or her sentence or term of
19 probation, revocation of the sentence or term of probation shall be
20 consistent with the procedures under this subchapter.

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

25 (c)(1) If committed to the Department of Correction, the court shall
26 specify if the commitment is for judicial transfer of the offender to the
27 Department of Community Correction or is a regular commitment.

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

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

35 (ii) That the initial placement in the Department of
36 Community Correction is conditioned upon the offender's continuing

1 eligibility for Department of Community Correction placement and the
2 offender's compliance with all applicable rules ~~and regulations~~ established
3 by the Board of Corrections for community correction programs.

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

6
7 SECTION 21. Arkansas Code Title 16, Chapter 93, Subchapter 3, is
8 amended to add an additional section to read as follows:

9 16-93-315. Probation generally – Administrative probation sanction.

10 (a)(1) A circuit court shall make as a term or condition of a person's
11 probation that he or she is subject to an administrative probation sanction
12 conducted by the Department of Community Correction.

13 (2) A person sentenced prior to the effective date of this act
14 that is on probation has the option to be sanctioned administratively under
15 this section if the person chooses to waive his or her right to a probation
16 revocation hearing in circuit court.

17 (b)(1) An administrative probation sanction under this section permits
18 the department to determine whether there is reasonable cause to believe that
19 the person has violated a condition of probation and to issue any sanction a
20 court is authorized to issue under § 16-93-309(a)(4).

21 (2) The department may notify the prosecuting attorney about the
22 need for a probation revocation hearing in circuit court if the department
23 believes a more serious sanction or incarceration is a necessary sentence.

24 (c) A person subject to an administrative probation sanction under
25 this section does not have the right to an attorney at the administrative
26 probation sanction but may petition instead to have a probation revocation
27 hearing heard in circuit court as provided in this subchapter.

28 (d) The Board of Corrections shall promulgate rules to implement this
29 section.

30
31 SECTION 22. Arkansas Code § 16-93-705, concerning the procedures of
32 parole revocation, is amended to add a new subsection to read as follows:

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

1
2 SECTION 23. Arkansas Code Title 16, Chapter 93, Subchapter 7, is
3 amended to add an additional section to read as follows:

4 16-93-715. Revocation – Technical conditions violations and serious
5 conditions violations.

6 (a)(1) If a parolee is subject to a parole revocation hearing under
7 this subchapter for a technical conditions violation or a serious conditions
8 violation, the parolee is subject to confinement for the following periods,
9 subject to subdivision (a)(2)(A) of this section, before being released and
10 returned to parole supervision:

11 (A) Up to ninety (90) days' confinement for a technical
12 conditions violation; and

13 (B) Exactly one hundred eighty (180) days' confinement for
14 a serious conditions violation.

15 (2)(A) A period of confinement under subdivision (a)(1) of this
16 section may be reduced by the Department of Correction or the Department of
17 Community Correction for good behavior and successful program completion.

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

21 (3) Any time in custody for which the person is held before a
22 period of confinement is ordered to be served under subdivision (a)(1) of
23 this section shall not be credited to the overall period of confinement
24 ordered under subdivision (a)(1) of this section.

25 (b)(1)(A) After a parolee has been confined three (3) times under this
26 subchapter for a technical conditions violation or serious conditions
27 violation, the parolee is subject to having his or her parole revoked and
28 being sentenced to the Department of Correction or the Department of
29 Community Correction for the next violation of his or her parole.

30 (B) After a parolee has been confined for a parole
31 revocation or sanction two (2) times under this subchapter for a serious
32 conditions violation, the parolee is subject to having his or her parole
33 revoked and being sentenced to the Department of Correction or the Department
34 of Community Correction for the next violation of his or her parole.

35 (2) A parolee is subject to having his or her parole revoked
36 under this section for a technical conditions violation or a serious

1 conditions violation without having been sanctioned for a period of
2 confinement set out under subsection (a) of this section if the Department of
3 Community Correction determines that the parolee is engaging in or has
4 engaged in behavior that poses a threat to the community.

5 (c) The location of the appropriate confining facility in which a
6 parolee serves a period of confinement under this section shall be determined
7 by the Board of Corrections.

8 (d) Noncompliance with program requirements approved by the Board of
9 Corrections or violent or sexual behavior while confined for a technical
10 conditions violation or serious conditions violation under this section may
11 result in revocation of the parolee's parole for a period of time exceeding
12 the limitations of subdivision (a)(1) of this section, up to and including
13 the time remaining on the person's original sentence.

14
15 SECTION 24. Arkansas Code § 16-93-1202(6), concerning the definition
16 of "eligibility" or "eligible offender" in the context of community
17 correction, is amended to read as follows:

18 (6) "Eligibility" or "eligible offender" means any person
19 convicted of a felony who is by law eligible for such sentence or who is
20 otherwise under the supervision of the Department of Community Correction and
21 who falls within the population targeted by the General Assembly for
22 inclusion in community correction facilities ~~or who is otherwise under the~~
23 ~~supervision of the Department of Community Correction~~ and who has not been
24 subject to a disciplinary violation for a violent act or for sexual
25 misconduct while in the custody of a jail or correctional facility and does
26 not have a current or previous conviction for a violent or sexual offense
27 listed under subdivision (10)(A)(iii) of this section;

28
29 SECTION 25. Arkansas Code § 16-93-1202(10), concerning the definition
30 of "target group" in the context of community correction, is amended to read
31 as follows:

32 (10)(A)(i) "Target group" means a group of offenders and
33 offenses determined to be, but not limited to, theft, theft by receiving, hot
34 checks, residential burglary, commercial burglary, failure to appear,
35 fraudulent use of credit cards, criminal mischief, breaking or entering, drug
36 paraphernalia, driving while intoxicated, fourth or subsequent offense, all

1 other Class B felonies, Class C felonies, or Class D felonies that are not
2 either violent or sexual and that meet the eligibility criteria determined by
3 the General Assembly to have significant impact on the use of correctional
4 resources, Class A controlled substance felonies and Class B controlled
5 substance felonies, and all other unclassified felonies for which the
6 prescribed limitations on a sentence do not exceed the prescribed limitations
7 for a ~~Class C~~ Class B felony and that are not either violent or sexual.

8 (ii) Offenders committing solicitation, attempt, or
9 conspiracy of the substantive offenses listed in subdivision (10)(A)(i) of
10 this section are also included in the group.

11 (iii) As used in this subdivision (10)(A), "violent
12 or sexual" includes all offenses against the person codified in § 5-10-101 et
13 seq., § 5-11-101 et seq., § 5-12-101 et seq., § 5-13-201 et seq., § 5-13-301
14 et seq., and § 5-14-101 et seq., ~~and~~ any offense containing as an element of
15 the offense the use of physical force, the threatened use of serious physical
16 force, the infliction of physical harm, or the creation of a substantial risk
17 of serious physical harm, and an offense for which the offender is required
18 to register as a sex offender under the Sex Offender Registration Act of
19 1997, § 12-12-901 et seq.

20 (iv) For the purpose of the sealing of a criminal
21 record under § 16-93-1207, "target group" includes any misdemeanor conviction
22 except a misdemeanor conviction for which the offender is required to
23 register as a sex offender or a misdemeanor conviction for driving while
24 intoxicated.

25 (B) ~~Offenders~~ Except for those offenders assigned to a
26 technical violator program, only those offenders and offenses falling within
27 the target group population may access community correction facilities
28 ~~pursuant to § 16-93-1208; whether by judicial transfer, administrative~~
29 transfer, drug court sanction, or probation sanction.

30 (C) Final determination of eligibility for placement in
31 any community correction center or program is the responsibility of the
32 Department of Community Correction;

33
34 SECTION 26. Arkansas Code § 16-93-1202(13), concerning the definition
35 of "trial court" in the context of community correction, is amended to read
36 as follows:

1 (13) "Trial court" means any court of this state having
2 jurisdiction of an eligible offender and the power to sentence the eligible
3 offender to the included options, subject to eligibility determination by the
4 Department of Community Correction.

5
6 SECTION 27. Arkansas Code § 16-98-303(b)(2), concerning the
7 responsibilities of the Department of Community Correction for a drug court
8 program, is amended to read as follows:

9 (2) Subject to an appropriation, funding, and position
10 authorization, both programmatic and administrative, and subject to the
11 requirements of eligibility as defined in § 16-93-1202, the Department of
12 Community Correction:

13 (A) Shall:

14 (i) Establish standards regarding the classification
15 of a drug court program participant as a high-risk offender or medium-risk
16 offender;

17 (ii) Provide positions for persons to serve as
18 probation officers, drug counselors, and administrative assistants;

19 (iii) Provide for drug testing for drug court
20 program participants;

21 (iv) Provide for intensive outpatient treatment for
22 drug court program participants;

23 (v) Provide for intensive short-term and long-term
24 residential treatment for drug court program participants; and

25 (vi) Develop clinical assessment capacity, including
26 drug testing, to identify a drug court program participant with a substance
27 addiction and develop a treatment protocol that improves the drug court
28 program participant's likelihood of success; and

29 (B) May:

30 (i) Provide for continuous alcohol monitoring for
31 drug court program participants, including a minimum period of one hundred
32 twenty (120) days; and

33 (ii) Develop clinical assessment capacity, including
34 continuous alcohol monitoring, to identify a drug court program participant
35 with a substance addiction and develop a treatment protocol that improves the
36 drug court program participant's likelihood of success.

1
2 *SECTION 28. Arkansas Code § 20-47-101 is repealed as the process of*
3 *arrest and citation by a law enforcement officer is already addressed under*
4 *the Arkansas Rules of Criminal Procedure.*

5 ~~*20-47-101. Officers' duty to arrest insane and drunken persons.*~~
6 ~~*It shall be the duty of all peace officers to arrest any insane or*~~
7 ~~*drunken persons whom they may find at large and not in the care of some*~~
8 ~~*discreet person. The officer shall take him or her before some magistrate of*~~
9 ~~*the county, city, or town in which the arrest is made.*~~

10
11 *SECTION 29. Arkansas Code § 20-47-102 is repealed as the authority of*
12 *a law enforcement officer to initiate the commitment process for an*
13 *individual in circuit court already exists under Arkansas law.*

14 ~~*20-47-102. Officer's duty to make application to circuit court.*~~
15 ~~*Whenever any sheriff, coroner, or constable shall discover any person*~~
16 ~~*to be of unsound mind who resides in the county, it shall be his or her duty*~~
17 ~~*to make application to the circuit court for the exercise of its*~~
18 ~~*jurisdiction, and thereupon the like proceedings shall be had as directed in*~~
19 ~~*§ 20-47-103.*~~

20
21 *SECTION 30. Arkansas Code § 20-47-103 is repealed as the authority of*
22 *a law enforcement officer to initiate the commitment process for an*
23 *individual in circuit court already exists under Arkansas law.*

24 ~~*20-47-103. Mental health judicial inquiry.*~~
25 ~~*If any person shall give information in writing to the circuit court*~~
26 ~~*that any person in his or her county has a mental illness, as defined by the*~~
27 ~~*laws of this state, the circuit court, if satisfied that there is good cause*~~
28 ~~*for the exercise of its jurisdiction, shall follow the procedure for*~~
29 ~~*involuntary admission and treatment of the person with the mental illness, as*~~
30 ~~*set out in the laws of this state.*~~

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

34 ~~*20-47-104. Detention prior to commitment to hospital.*~~
35 ~~*The circuit court with venue and jurisdiction of a person whose*~~
36 ~~*involuntary admission is sought shall make such orders as may be necessary to*~~

1 ~~keep that person in restraint until the person can be sent by due process of~~
 2 ~~law to the Arkansas State Hospital.~~

3
 4 SECTION 32. Arkansas Code § 20-47-105 is amended to read as follows:

5 20-47-105. Liability for costs of proceedings.

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

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

20
 21 SECTION 33. Arkansas Code § 20-47-106 is amended to read as follows:

22 20-47-106. Liability for support.

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

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

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

31 ~~(2)(3)~~ The legally liable person is able to pay.

32
 33 SECTION 34. Arkansas Code § 20-47-107 is repealed.

34 ~~20-47-107. Recovery of money paid by county.~~

35 ~~In all cases of appropriations out of the county treasury for the~~
 36 ~~support and maintenance or confinement of any person who is in need of mental~~

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

5
6 SECTION 35. Arkansas Code § 20-47-109 is amended to read as follows:

7 20-47-109. Abuse of patients prohibited.

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

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

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

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

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

31
32 SECTION 36. Arkansas Code Title 20, Chapter 47, is amended to add an
33 additional subchapter to read as follows:

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

35
36 20-47-801. Title.

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

3
4 20-47-802. Legislative intent.

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

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

23
24 20-47-803. Definitions.

25 As used in this subchapter:

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

27 (A) Ambulating;

28 (B) Transferring;

29 (C) Eating;

30 (D) Bathing;

31 (E) Dressing;

32 (F) Grooming; and

33 (G) Toileting;

34 (2)(A) "Behavioral health impairment" means a substantial
35 impairment of emotional processes, the ability to exercise conscious control
36 of one's actions, or the ability to perceive reality or to reason, when the

1 impairment is manifested by instances of extremely abnormal behavior or
2 extremely faulty perceptions that interfere with one (1) or more activities
3 of daily living.

4 (B) "Behavioral health impairment" may include a temporary
5 behavioral health or mental impairment that results when an individual is
6 under the influence of alcohol or a controlled substance to the extent that
7 the impairment is substantial to the point of meeting the definition under
8 subdivision (2)(A) of this section and is a manifestation of a mental health
9 condition or a substance abuse disorder;

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

12 (4) "Comprehensive psychiatric emergency service" means a
13 specialized psychiatric service operated by a crisis stabilization unit and
14 located in or near a hospital or other facility that can provide psychiatric
15 emergency services for a period of time greater than can be provided in the
16 hospital or other facility;

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

25 (6)(A) "Crisis intervention team" means a community partnership
26 among law enforcement agencies and jail personnel, healthcare providers, and
27 mental health professionals.

28 (B) A crisis intervention team also may include consumers
29 and family members of consumers to serve in an advisory capacity;

30 (7) "Crisis intervention team officer" means a law enforcement
31 officer who is:

32 (A) Authorized to make arrests under the laws of this
33 state;

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

36 (C) Employed by a law enforcement agency that is a

1 participating partner in a crisis intervention team;

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

5 (9) "Crisis stabilization unit catchment area" means the
6 geographical area that a crisis stabilization unit serves;

7 (10) "Extended observation bed" means a bed that is used by a
8 comprehensive psychiatric emergency service in a facility certified by the
9 Department of Human Services, or a division of the department, for the
10 purpose of providing comprehensive psychiatric emergency services;

11 (11) "Mental health professional" means a person qualified by
12 licensure and experience in the diagnosis and treatment of behavioral health
13 conditions;

14 (12) "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 (13) "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 and, when
22 possible, to stabilize that individual so that continuing treatment can be
23 provided in the individual's community;

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

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

31 (B) Is working within the scope of practice as authorized
32 by law;

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

35 (A) Has completed at least one (1) year of practice as a
36 physician assistant employed by a community mental health center; and

1 (B) Is working under the supervision of a physician at a
2 crisis stabilization unit;

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

4 (A) That an individual:

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

7 (ii) Has inflicted, attempted to inflict, or
8 threatened to inflict serious bodily harm on another person, and there is a
9 reasonable probability that the conduct will occur;

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

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

14 (B) There is substantial likelihood that serious bodily
15 harm will occur unless the individual is provided psychiatric emergency
16 services and treatment; and

17 (17) "Triage and referral services" means services designed to
18 provide evaluation of an individual with a behavioral health impairment as
19 defined under subdivision (2)(A) of this section in order to direct that
20 individual to a community mental health center, mental health facility,
21 hospital, or other mental health services provider that can provide
22 appropriate treatment.

23
24 20-47-804. Crisis intervention protocol not exclusive – Voluntary stay
25 at crisis stabilization unit.

26 (a) If during or after the initiation of a crisis intervention
27 protocol under this subchapter a mental health professional or medical
28 professional believes the individual being detained would benefit more from a
29 longer commitment in a residential facility, the mental health professional
30 or medical professional may institute commitment proceedings as authorized
31 under § 20-47-201 et seq.

32 (b) If a commitment proceeding is initiated under § 20-47-201 et seq.
33 in a court with jurisdiction, that proceeding shall control and any custodial
34 detention or treatment as part of a crisis intervention protocol initiated
35 under this subchapter shall cease in lieu of any commitment or treatment
36 ordered by the court.

1 (c)(1) A crisis intervention protocol may be ended before the maximum
2 detention time of seventy-two (72) hours has elapsed, as described under §
3 20-47-810, by the law enforcement agency who has custody of the individual at
4 its discretion if:

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

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

11 (C) The crisis stabilization unit agrees to allow the
12 individual to remain at the crisis stabilization unit.

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

16 (B) A crisis stabilization unit may:

17 (1) Discharge an individual who is released from
18 custody and remains at the crisis stabilization unit voluntarily at its
19 discretion;

20 (2) As part of the discharge process and subject to
21 the consent of the person no longer in custody, provide the person with a
22 follow-up treatment plan and a request that the person utilize the treatment
23 plan, including subsequent appointments with a mental health professional.

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 crisis
36 stabilization unit catchment area that has agreed to serve as a crisis

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

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

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

5 (b)(1) A collaborative agreement under subsection (a) of this section
6 shall specify that the facility designated under the collaborative agreement
7 as the crisis stabilization unit is required to accept for screening and
8 triage an individual who is in the custody of or detained by a law
9 enforcement agency if:

10 (A) The law enforcement agency employs:

11 (i) A crisis intervention team officer operating
12 within the crisis stabilization unit catchment area, whether in the field or
13 at a local detention facility; or

14 (ii) A crisis intervention team officer operating
15 within the crisis stabilization unit catchment area and has entered into an
16 agreement with another law enforcement agency to transport an individual to a
17 crisis stabilization unit; and

18 (B) The individual has been taken into custody or is
19 detained because the individual demonstrates the substantial likelihood of
20 committing bodily harm against himself or herself or against another person.

21 (2) A participating partner that is not a law enforcement agency
22 as part of a collaborative agreement under this section shall indemnify a
23 participating law enforcement agency against all acts of negligence that may
24 occur in the course of and scope of the application of a crisis intervention
25 protocol toward another person.

26
27 20-47-807. Crisis stabilization units – Operations.

28 (a)(1) The internal operation of a crisis stabilization unit shall be
29 governed by the administration of a facility designated as the crisis
30 stabilization unit and regulated by the Department of Human Services or a
31 division of the department.

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

35 (b)(1) A facility operating as a crisis stabilization unit under a
36 crisis intervention protocol shall appoint a unit director to oversee the

1 operation of the facility-based service.

2 (2) The unit director shall assure that the services provided
3 are within the guidelines established by the collaborative agreements under §
4 20-47-806(a).

5 (c) Notwithstanding any other provision of law, this subchapter does
6 not create an entitlement for any individual to receive psychiatric emergency
7 services at a crisis stabilization unit.

8
9 20-47-808. Determination of need to initiate crisis intervention
10 protocol.

11 (a)(1) If a crisis intervention team officer determines that an
12 individual with a behavioral health impairment demonstrates a substantial
13 likelihood of committing bodily harm to himself or herself or to another
14 person, the crisis intervention team officer may take the individual into
15 custody for the purpose of transporting the individual to the designated
16 crisis stabilization unit serving the crisis stabilization unit catchment
17 area in which the officer has jurisdiction.

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

20 (b)(1) Only a crisis intervention team officer with jurisdictional
21 authority to operate within a crisis stabilization unit catchment area may
22 determine whether a person in custody should be transported to the crisis
23 stabilization unit for that crisis stabilization unit catchment area.

24 (2) However, any law enforcement officer may transport the
25 person to the crisis stabilization unit for that crisis stabilization unit
26 catchment area when the determination under subdivision (b)(1) of this
27 section has been made.

28 (c)(1) An individual transported by a crisis intervention team officer
29 to the crisis stabilization unit or a individual referred by the community
30 mental health center under the guidelines of a collaborative agreement under
31 § 20-47-806(a) shall be examined by a physician, psychiatric nurse
32 practitioner, psychiatric physician assistant, or mental health professional.

33 (2) If the individual does not consent to voluntary evaluation
34 and treatment and the physician, psychiatric nurse practitioner, psychiatric
35 physician assistant, or mental health professional determines that the
36 individual is an individual with a behavioral health impairment, the

1 physician, psychiatric nurse practitioner, psychiatric physician assistant,
2 or mental health professional shall then determine if that individual may be
3 held under the crisis intervention protocol as set out in this subchapter.

4 (3) If the physician, psychiatric nurse practitioner,
5 psychiatric physician assistant, or mental health professional determines
6 that the individual demonstrates a substantial likelihood of committing
7 bodily harm against himself or herself or against another person because of a
8 behavioral health impairment caused by alcohol or a controlled substance and
9 that there is no reasonable less restrictive alternative, the individual may
10 be held at the crisis stabilization unit until the behavioral health
11 impairment has resolved and the individual no longer demonstrates a
12 substantial likelihood of committing bodily harm to himself or herself or
13 against another person.

14
15 20-47-809. Implementation of psychiatric emergency services.

16 (a)(1) To implement psychiatric emergency services under a crisis
17 intervention protocol under this subchapter, a crisis stabilization unit
18 shall request licensure from the Department of Human Services for the number
19 of extended observation beds that are required to adequately serve the
20 designated crisis stabilization unit catchment area.

21 (2) A license for the requested extended observation beds is
22 required before the crisis stabilization unit may put the extended
23 observation beds into service for patients.

24 (b) If the Department of Human Services determines that psychiatric
25 emergency services under this subchapter are adequate to provide for the
26 privacy and safety of all patients receiving services in the crisis
27 stabilization unit, the Department of Human Services may approve the location
28 of one (1) or more of the extended observation beds within another area of
29 the single point of entry rather than in proximity to the emergency
30 department.

31 (c) Each psychiatric emergency service shall provide or contract to
32 provide qualified physicians, licensed mental health professionals,
33 psychiatric nurse practitioners, psychiatric physician assistants, and
34 ancillary personnel necessary to provide services twenty-four (24) hours per
35 day, seven (7) days per week.

36 (d)(1) A psychiatric emergency service provided by a crisis

1 stabilization unit shall have at least one (1) physician, one (1) psychiatric
2 nurse practitioner, one (1) psychiatric physician assistant, or one (1)
3 mental health professional who is a member of the staff of the crisis
4 stabilization unit and who is on duty and available at all times.

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

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

12 (B) A licensed mental health professional to screen and
13 assess an individual with a behavioral health impairment within thirty (30)
14 minutes of notification that the individual has arrived; and

15 (C) The physician, psychiatric nurse practitioner,
16 psychiatric physician assistant, or mental health professional on call for
17 the psychiatric emergency service to evaluate the individual with a
18 behavioral health impairment onsite within twelve (12) hours of the
19 individual's admission.

20 (3) A crisis stabilization unit is encouraged to use
21 telemedicine under this subchapter to the extent it is effective and
22 authorized by state law.

23
24 20-47-810. Seventy-two-hour maximum time of detention.

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

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

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

36 (d) As part of the discharge process after the seventy-two (72) hour

1 hold has expired and the individual is being released from custody, and
2 subject to the consent of the person no longer in custody, a crisis
3 stabilization unit may provide the individual with a follow-up treatment plan
4 and a request that the individual utilize the treatment plan, including
5 subsequent appointments with a mental health professional.

6
7 20-47-811. Immunity from liability.

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

12
13 20-47-812. Development of crisis intervention protocols.

14 (a)(1) A director of a community mental health center shall actively
15 encourage hospitals, community mental health centers, mental health services
16 providers, and other mental health professionals to develop psychiatric
17 emergency services.

18 (2) If a collaborative agreement can be negotiated with a
19 hospital, community mental health center, or other healthcare facility that
20 can provide a comprehensive psychiatric emergency service, that hospital,
21 community mental health center, or other healthcare facility shall be given
22 priority when designating the single point of entry.

23 (b) The Department of Human Services shall encourage community mental
24 health center directors to actively work with hospitals, mental health
25 services providers, other mental health professionals, and law enforcement
26 agencies to develop a crisis intervention protocol and associated crisis
27 intervention teams and psychiatric emergency services and shall facilitate
28 the development of those collaborations.

29
30 20-47-813. Rulemaking authority.

31 The Department of Human Services is authorized to utilize rulemaking in
32 order to properly implement the provisions of this subchapter concerning the
33 certification of a nonhospital crisis stabilization unit.

34
35 /s/J. Hutchinson
36