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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28 SUPERSEDED BY THE COMMITMENT AND TREATMENT PROCESS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) In addition to other available sanctions, a person sentenced prior
7 to the effective date of this act that is on probation under this section has
8 the option to be sanctioned administratively under § 16-93-306(d) as it
9 existed at the time of his or her sentence or as § 16-93-306 exists as of the
10 effective date of this act.

11
12 SECTION 2. Arkansas Code § 5-4-312 is amended to read as follows:

13 5-4-312. Presentence investigation – Placement in a community
14 correction program.

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

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

25 (b) Upon a preliminary determination by a court that a defendant is an
26 eligible offender and that placement in a community correction program under
27 § 16-93-1201 et seq. is proper, the court may:

28 (1)(A) Suspend the imposition of the sentence or place the
29 defendant on probation, under §§ 5-4-104, § 5-4-201 et seq., § 5-4-301 – 5-4-
30 307, and § 16-93-314.

31 (B) A sentence under subdivision (b)(1)(A) of this section
32 may be accompanied by assignment to a community correction program under §
33 16-93-1201 et seq. for a designated period of time commensurate with the
34 goals of the community correction program assignment and the rules
35 established by the Board of Corrections for the operation of community
36 correction programs.

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

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

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

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

20 (2)(A) Commit the defendant to the custody of the Department of
21 Correction for judicial transfer to the Department of Community Correction
22 subject to the following:

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

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

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

36 (3)(A) Sentence the defendant to the Department of Correction,

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

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

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

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

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

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

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

32
33 SECTION 3. Arkansas Code Title 6, Chapter 64, Subchapter 12, is
34 repealed due to duplicate codification in Title 12.

35 ~~6-64-1201. Definitions.~~

36 ~~As used in this subchapter:~~

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

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

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

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

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

19
20 ~~6-64-1202. Law Enforcement Training Committee - Creation - Duties.~~

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

22 ~~(1) Identify mental health training needs for law enforcement~~
23 ~~officers; and~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 ~~(B) The meeting shall include without limitation~~
34 ~~representatives of:~~

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

36 ~~(ii) Community mental health centers within the~~

1 ~~jurisdiction of the departments;~~

2 ~~(iii) Consumers;~~

3 ~~(iv) Courts;~~

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

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

6 ~~including without limitation, the University of Arkansas for Medical Sciences~~

7 ~~and the Regional Centers of the University of Arkansas for Medical Sciences.~~

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

12
 13 SECTION 4. The title of the subchapter for Arkansas Code Title 10,
 14 Chapter 3, Subchapter 28, is amended to read as follows:

15 Subchapter 28 – Legislative Criminal Justice Oversight Task Force Task Forces
 16 Concerning Criminal Justice

17
 18 SECTION 5. Arkansas Code Title 10, Chapter 3, Subchapter 28, is
 19 amended to add an additional section to read as follows:

20 10-3-2802. Interagency Task Force for the Implementation of Criminal
 21 Justice Prevention Initiatives.

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

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

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

30 (b) The task force shall be composed of the following seventeen (17)
 31 members, as follows:

32 (1) Seven (7) members shall be appointed by the Governor:

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

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

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

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

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

3 (F) Two (2) members who are prosecuting attorneys;

4 (2) Two (2) members of the Senate appointed by the President Pro
5 Tempore of the Senate;

6 (3) Two (2) members of the House of Representatives appointed by
7 the Speaker of the House of Representatives;

8 (4) One (1) member appointed by the Director of the Department
9 of Human Services who represents the Division of Behavioral Health Services
10 of the Department of Human Services;

11 (5) The Chair of the Board of Corrections or his or her
12 designee;

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

14 (7) The Director of the Department of Correction or his or her
15 designee;

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

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

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

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

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

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

29 (1) To track the implementation of and evaluate compliance with
30 this act;

31 (2) To review performance and outcome measure reports submitted
32 semiannually by the Department of Correction, Department of Community
33 Correction, Parole Board, Board of Corrections, Arkansas Sentencing
34 Commission, and Specialty Court Program Advisory Committee under this act and
35 evaluate the impact;

36 (3) To develop quality assurance reporting on the implementation

1 of policies and the expenditure of resource investments related to the
2 justice reinvestment policies and reinvestments; and

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

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

9 (e) Members of the task force shall receive no pay for their services,
10 but each member may receive expense reimbursement in accordance with § 25-16-
11 901 et seq.

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

13
14 SECTION 6. Arkansas Code Title 12, Chapter 6, is amended to add an
15 additional subchapter to read as follows:

16 Subchapter 6 – Local Criminal Justice Coordinating Committees

17
18 12-6-601. Local criminal justice coordinating committees.

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

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

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

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

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

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

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

4 12-9-118. Behavioral health crisis intervention training.

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

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

13 (b) Training under subsection (a) of this section shall include
14 without limitation:

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

16 (A) With a behavioral health impairment as defined in §
17 20-47-803;

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

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

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

25 (2) Available mental health service providers and support
26 services;

27 (3) The voluntary and involuntary commitment process;

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

30 (5) Practices to promote the safety of law enforcement officers
31 and the public.

32 (c) The commission shall certify:

33 (1) Specialized training for qualified law enforcement officers
34 of at least eight (8) hours; and

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

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

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

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

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

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

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

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

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

27
28 *SECTION 8. Arkansas Code § 12-11-110 is repealed as the process of*
29 *arrest and citation by a law enforcement officer is already addressed under*
30 *the Arkansas Rules of Criminal Procedure.*

31 ~~*12-11-110. Drunken, insane, and disorderly persons.*~~

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

35
36 *SECTION 9. Arkansas Code Title 12, Chapter 12, Subchapter 2, is*

1 amended to add an additional section to read as follows:

2 12-12-219. Records of local and regional detention facilities.

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

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

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

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

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

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

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

21 (B) The offenses the inmates committed or were accused of
22 committing; and

23 (C) The dates the inmates were both taken into custody and
24 released;

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

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

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

33 (c) The center shall promulgate rules necessary to implement this
34 section.

35
36 SECTION 10. Arkansas Code § 12-27-127 is amended to read as follows:

1 12-27-127. Transfer to the Department of Community Correction =
2 Transfer of an inmate between departments.

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

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

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

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

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

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

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

34 (c)(1) In accordance with rules and procedures promulgated by the
35 Board of Corrections, or except as otherwise prohibited by subdivision (c)(4)
36 of this section, upon receipt of a referral from the director or his or her

1 designee, the Parole Board may release from confinement an inmate who has
2 been:

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

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

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

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

11 (i) Aid the therapeutic rehabilitation of the inmates
12 judicially or administratively transferred to the Department of Community
13 Correction; and

14 (ii) More efficiently use the correctional resources
15 of the State of Arkansas.

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

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

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

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

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

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

8 (A) *Administratively transferred to the Department of*
9 *Community Correction; and*

10 (B) *Determined by the Department of Community Correction to*
11 *have successfully completed its reentry program.*

12 (4) *An inmate who has been administratively transferred under*
13 *this subsection shall be administratively transferred back to the Department*
14 *of Correction if he or she:*

15 (A) *Is denied parole; or*

16 (B) *Fails to complete or is removed from the reentry*
17 *program.*

18
19 SECTION 11. *Arkansas Code Title 12, Chapter 27, Subchapter 1, is*
20 *amended to add an additional section to read as follows:*

21 12-27-148. Department of Community Correction – Sufficient staffing
22 guidelines.

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

31
32 SECTION 12. *Arkansas Code Title 12, Chapter 41, Subchapter 1, is*
33 *amended to add an additional section to read as follows:*

34 12-41-108. Behavioral health and risk screening tool – Database entry.

35 A local correctional facility is encouraged to:

36 (1) Adopt independently, or in collaboration with other local

1 correctional facilities or nongovernmental law enforcement entities, a
2 screening tool designed to screen inmates or other detainees for a behavioral
3 health impairment, substance abuse issues, and criminogenic risk; and
4 (2) Utilize the database maintained by the Arkansas Crime
5 Information Center under § 12-12-219 concerning entry of data and information
6 collected from inmates at a local correctional facility.

7
8 SECTION 13. Arkansas Code § 16-90-803(a)(2), concerning the voluntary
9 presumptive sentence standards, is amended to read as follows:

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

13
14 SECTION 14. Arkansas Code § 16-90-803(b)(3), concerning the voluntary
15 presumptive sentence standards, is amended to read as follows:

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

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

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

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

28
29 SECTION 15. Arkansas Code § 16-90-804 is amended to read as follows:
30 16-90-804. Departures from the ~~standards~~ voluntary presumptive
31 sentencing range.

32 (a)(1) ~~The trial~~ At a bench trial, a court may deviate depart from the
33 voluntary presumptive ~~sentence without~~ sentence range determined under § 16-
34 90-803 in reliance on one (1) or more aggravating factors by providing a
35 ~~written~~ justification in the record of:

36 (A) A listing of the charges and sentencing enhancements

1 against the offender as set out in the first charging instrument as well as
2 any additional charges or sentence enhancements subsequently added in the
3 case, if any; and

4 (B) A thorough recitation of the facts underlying the
5 departure from the voluntary presumptive sentence range under § 16-90-803.

6 (2)(A) The justification regarding an aggravating factor shall
7 be entered into the sentencing order.

8 (B) The sentencing order shall also reflect whether the
9 sentence is the result of an original charge or whether an original charge
10 was nolle prosequi.

11 (b)(1)(A) When sentencing is done by the ~~judge following the entry of~~
12 ~~a plea of guilty or nolo contendere or~~ court following a trial before the
13 ~~judge~~ court, either party or both parties may present evidence to justify a
14 departure from the voluntary presumptive sentence range determined under §
15 16-90-803.

16 (B) The judge court may allow argument either during the
17 sentencing phase of a trial or at a separate hearing on the matter of
18 departing from the voluntary presumptive sentencing range determined under §
19 16-90-803 if ~~he or she~~ the court finds that ~~it~~ argument would be helpful.

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

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

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

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

1 Sentencing Commission.

2 (ii) The written reasons required under subdivision
3 (b)(2)(B)(i) of this section shall include:

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

8 (b) A thorough recitation of the facts
9 underlying the departure from the presumptive sentence range under § 16-90-
10 803.

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

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

17 ~~(1) Mitigating Factors.~~

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

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

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

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

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

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

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

1 ~~(G)(6)~~ The operation of the multiple offense policy inclusion of
2 multiple offenses in calculating the voluntary presumptive sentence range
3 under § 16-90-803 results in a presumptive sentence that is clearly excessive
4 in light of the purpose of this chapter;

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

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

15 ~~(i)(A)~~ The timeliness of the ~~defendant's~~ offender's
16 assistance;

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

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

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

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

27 ~~(2) Aggravating Factors.~~

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

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

36 ~~(B)(2)~~ The offender knew or should have known that the victim

1 was particularly vulnerable or incapable of resistance due to extreme youth,
2 advanced age, disability, or ill health;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (ii) Being armed with a deadly weapon;

23 (iii) Possessing a deadly weapon;

24 (iv) Furnishing a deadly weapon; or

25 (v) Carrying a deadly weapon;

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

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

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

1 crowd of people;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (E) Except for an offense under the Uniform Controlled
13 Substances Act, § 5-64-101 et seq., a misdemeanor offense that is a lesser
14 included offense or falls within the same chapter of the Arkansas Criminal
15 Code of the offense for which the defendant was placed on probation or
16 parole; and

17 (14) "Technical conditions violation" means:

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

21 (B) The parolee or probationer absenting himself or
22 herself from supervision.

23
24 SECTION 17. Arkansas Code § 16-93-306 is amended to read as follows:
25 16-93-306. Probation generally – Supervision.

26 (a)(1) The Director of the Department of Community Correction with the
27 advice of the Board of Corrections shall establish written policies and
28 procedures governing the supervision of probationers designed to enhance
29 public safety and to assist the probationers in integrating into society.

30 (2)(A) The supervision of probationers shall be based on
31 evidence-based practices including a validated risk-needs assessment.

32 (B) Decisions shall target the probationer's criminal risk
33 factors with appropriate supervision and treatment.

34 (b) A probation officer shall:

35 (1) Investigate all cases referred to him or her by the
36 director, the sentencing judge, or the prosecuting attorney;

1 (2) *Furnish to each probationer under his or her supervision a*
2 *written statement of the conditions of probation and instruct the probationer*
3 *that he or she ~~must~~ is required to stay in compliance with the conditions of*
4 *probation or risk revocation under § 16-93-308;*

5 (3) *Develop a case plan for each individual who is assessed as a*
6 *moderate to high risk to reoffend based on the risk and needs assessment that*
7 *targets the criminal risk factors identified in the assessment, is responsive*
8 *to individual characteristics, and provides supervision of offenders*
9 *according to that case plan;*

10 (4) *Stay informed of the probationer's conduct and condition*
11 *through visitation, required reporting, or other methods, and report to the*
12 *sentencing court of that information upon request;*

13 (5) *Use practicable and suitable methods that are consistent*
14 *with evidence-based practices to aid and encourage a probationer to improve*
15 *his or her conduct and condition and to reduce the risk of recidivism;*

16 (6)(A) *Conduct a validated risk-needs assessment of the*
17 *probationer, including without limitation criminal risk factors and specific*
18 *individual needs.*

19 (B) *The actuarial assessment shall include an initial*
20 *screening and, if necessary, a comprehensive assessment.*

21 (C) *The results of the risk-needs assessment shall assist*
22 *in making decisions that are consistent with evidence-based practices on the*
23 *type of supervision and services necessary to each parolee; and*

24 (7) *Receive annual training on evidence-based practices and*
25 *criminal risk factors, as well as instruction on how to target these factors*
26 *to reduce recidivism.*

27 (c)(1) *The Department of Community Correction shall allocate*
28 *resources, including the assignment of probation officers, to focus on*
29 *moderate-risk and high-risk offenders as determined by the actuarial*
30 *assessment provided in subdivision (b)(6) of this section.*

31 (2) *The ~~department~~ Department of Community Correction shall*
32 *require public and private treatment and service providers that receive state*
33 *funds for the treatment of or service for probationers to use evidence-based*
34 *programs and practices.*

35 (d)(1) *The ~~department~~ Department of Community Correction shall have*
36 *the authority to sanction probationers administratively without utilizing the*

1 revocation process under § 16-93-307.

2 (2)(A) The ~~department~~ Department of Community Correction shall
3 develop an intermediate sanctions procedure and grid to guide a probation
4 officer in determining the appropriate response to a violation of conditions
5 of supervision.

6 (B) Intermediate sanctions administered by the ~~department~~
7 Department of Community Correction are required to conform to the sanctioning
8 grid.

9 (3) Intermediate sanctions shall include without limitation:

10 (A) Day reporting;

11 (B) Community service;

12 (C) Increased substance abuse screening and or treatment;

13 (D) Increased monitoring, including electronic monitoring
14 and home confinement; and

15 (E)(i) Incarceration in a county jail for no more than
16 seven (7) days or incarceration in a Department of Community Correction or
17 Department of Correction facility for no more than one hundred eighty (180)
18 days.

19 (ii)(a) Incarceration as an intermediate sanction
20 shall not be used more than ~~ten (10)~~ six (6) times with an individual
21 probationer, ~~and.~~

22 (b) ~~no~~ A probationer shall accumulate no
23 more than thirty (30) days' incarceration in a county jail or no more than
24 three hundred sixty (360) days' incarceration in a Department of Community
25 Correction or Department of Correction facility as an intermediate sanction
26 before the probation officer recommends a violation of the person's probation
27 under § 16-93-307.

28 (c) A probationer is subject to a period
29 of incarceration of:

30 (1) Up to ninety (90) days in a
31 Department of Community Correction or Department of Correction facility for a
32 technical conditions violation; and

33 (2) Exactly one hundred eighty
34 (180) days in a Department of Community Correction or Department of
35 Correction facility for a serious conditions violation.

36 (d) A probationer may not be

1 incarcerated more than two (2) times as a probation sanction in a Department
2 of Community Correction or Department of Correction facility.

3 (4) The Department of Community Correction shall notify the
4 prosecuting attorney in writing when a probationer has been incarcerated due
5 to an administrative sanction under this subsection and shall include an
6 explanation of the cause for incarceration as well as the result of the
7 sanction, if applicable.

8 (e) Any time in custody for which the probationer is held before a
9 period of incarceration under this section is administered shall not count as
10 period of incarceration ordered under subdivision (d)(3)(E)(ii)(a) of this
11 section or toward the total accumulation of days of incarceration as set
12 forth in subdivision (d)(3)(E)(ii)(b) of this section.

13 (f) A sanction under this section is not available to a person serving
14 a suspended imposition of sentence.

15 (g) A period of incarceration under this section:

16 (1) May be reduced by the Department of Correction or the
17 Department of Community Correction for good behavior and successful program
18 completion; and

19 (2) Shall not be reduced under this section for more than fifty
20 percent (50%) of the total time of incarceration ordered to be served.

21 (h)(1)(A) A probationer subject to an administrative probation
22 sanction under subsection (d) of this section does not have the right to an
23 attorney at the administrative probation sanction but may elect instead to
24 have a probation sanction heard in circuit court as provided in this
25 subchapter and in which he or she has the right to an attorney.

26 (B) This subsection does not prohibit a probationer from
27 conferring with a privately retained attorney during the administrative
28 probation sanction process.

29 (2)(A) The Department of Community Correction shall inform the
30 probationer who is subject to a probation sanction under this section in
31 writing that he or she may elect to have the probation sanction heard in
32 circuit court.

33 (B) If the probationer elects to have his or her probation
34 sanction heard in circuit court, the Department of Community Correction shall
35 notify the prosecuting attorney and cause a petition to hear the probation
36 sanction to be filed in the circuit court within ten (10) days of the

1 election.

2
3 SECTION 18. Arkansas Code § 16-93-308 is amended to read as follows:
4 16-93-308. Probation generally – Revocation – Definition.

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

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

10 (b)(1) At any time before the expiration of a period of suspension of
11 sentence or probation, any law enforcement officer may arrest a defendant on
12 probation or serving a suspended imposition of sentence without a warrant if
13 the law enforcement officer has reasonable cause to believe that the
14 defendant:

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

17 (B) Is exhibiting behavior that can be construed to be a
18 threat to:

19 (i) Abscond from supervision; or

20 (ii) Not comply with an intermediate sanction under
21 § 16-93-306(d) or § 16-93-309(a)(4).

22 (2) If a defendant on probation is arrested by a probation
23 officer employed by the Department of Community Correction for a violation of
24 the defendant's probation and taken to a county jail for a reason listed
25 under subdivision (b)(1)(B) of this section, the state shall reimburse the
26 county for the costs of incarceration at the prevailing rate of
27 reimbursement.

28 (c)(1) A defendant arrested for violation of suspension of sentence or
29 probation shall be taken immediately before the court that suspended
30 imposition of sentence or, if the defendant was placed on probation, before
31 the court supervising the probation, or, if the defendant is subject to
32 administrative probation sanction under § 16-93-306(d), to the appropriate
33 authority in the Department of Community Correction if practicable or, if
34 transport to an appropriate authority of the Department of Community
35 Correction is not practicable, then to the county jail.

36 (2) If a defendant subject to administrative probation sanction

1 is transported to a county jail, then the county shall be reimbursed at the
2 daily prevailing rate for the costs of incarceration.

3 (d) If a court finds by a preponderance of the evidence that the
4 defendant has inexcusably failed to comply with a condition of his or her
5 suspension of sentence or probation, the court may revoke the suspension of
6 sentence or probation at any time prior to the expiration of the period of
7 suspension of sentence or probation.

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

11 (f) A court may revoke a suspension of sentence or probation
12 subsequent to the expiration of the period of suspension of sentence or
13 probation if before expiration of the period:

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

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

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

21 (4) The defendant has been:

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

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

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

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

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

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

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

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

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

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

19 (ii) Is registered for employment and enrolled and
20 participating in an employment-training program with the purpose of obtaining
21 gainful employment.

22 (i)(1)(A) Except as provided for in subdivision (i)(2) of this
23 section, if a defendant on probation is subject to a revocation hearing under
24 this subchapter or an administrative probation sanction for a technical
25 conditions violation or a serious conditions violation, the defendant on
26 probation is subject to confinement according to the time periods set out in
27 § 16-93-306(d) and § 16-93-309(a)(4) without having his or her probation
28 revoked.

29 (B)(i) A defendant on probation is subject to having his
30 or her probation revoked and being sentenced to the Department of Correction
31 or the Department of Community Correction for a subsequent violation of his
32 or her probation if the defendant has been confined six (6) times under § 16-
33 93-306(d).

34 (ii) After a defendant on probation has been
35 confined two (2) times under either § 16-93-306(d) or § 16-93-309(a)(4) for
36 any combination of a technical conditions violation or serious conditions

1 violation for any period of time, the defendant on probation is subject to
2 having his or her probation revoked and being sentenced to the Department of
3 Correction or the Department of Community Correction for a subsequent
4 violation of his or her probation.

5 (2)(A) A defendant is subject to having his or her probation
6 revoked under this section for a technical conditions violation or a serious
7 conditions violation without having been sanctioned for a period of
8 confinement set out under § 16-93-306(d) or § 16-93-309(a)(4) if upon the
9 filing of a petition in the court with jurisdiction the Department of
10 Community Correction or the prosecuting attorney proves by a preponderance of
11 the evidence that the defendant is engaging in or has engaged in behavior
12 that poses a threat to the community.

13
14 (B) If a prosecuting attorney alleges a technical
15 conditions violation or a serious conditions violation under subdivision
16 (i)(2)(A) of this section and meets the standard established under
17 subdivision (i)(2)(A) of this section, the court may revoke the defendant's
18 probation and sentence him or her to a period of time exceeding the time
19 periods set out under § 16-93-306(d) or § 16-93-309(a)(4).

20 (3) A period of confinement that a defendant on probation serves
21 for a probation violation but before being administratively sanctioned or
22 sanctioned by the circuit court shall not count as a period of confinement
23 for the purposes of the aggregate number of periods of confinement under this
24 subsection or under § 16-93-306(d)(3)(E)(ii)(a) nor shall the number of days
25 of confinement count toward the total accumulation of days of confinement as
26 set forth in § 16-93-306(d)(3)(E)(ii)(b).

27 (j) To the extent that a participant in a specialty court program is
28 subject to this section, any period of confinement ordered by the specialty
29 court is not subject to the accumulation of sanctions under subsection (i) of
30 this section nor is a specialty court program bound by the time periods under
31 § 16-93-306(d) or § 16-93-309(a)(4).

32
33 SECTION 19. Arkansas Code § 16-93-309 is amended to read as follows:
34 16-93-309. Probation generally – Revocation hearing – Sentence
35 alternatives – Sanctions.

36 (a) Following a revocation hearing held under § 16-93-307 and in which

1 a defendant on probation or who is serving a suspended imposition of sentence
2 has been found guilty or has entered a plea of guilty or nolo contendere, the
3 court may:

4 (1) Continue the period of suspension ~~of imposition~~ of sentence
5 or continue the period of probation;

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

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

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

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

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

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

20 (ii) Any time in custody for which the defendant is
21 held before a period of confinement is ordered by the court under subdivision
22 (a)(4)(A) of this section shall not be credited to the overall period of
23 confinement ordered under subdivision (a)(4) of this section or toward the
24 maximum number of periods of confinement or the maximum number of days
25 authorized under § 16-93-306(d)(3)(E).

26 (C) The periods of confinement under subdivision (a)(4)(B)
27 of this section are not available to a person serving a suspended imposition
28 of sentence; or

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

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

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

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

4 (c)(1) If a defendant is in custody awaiting a hearing under this
5 section for a technical conditions violation or a serious conditions
6 violation, the hearing shall be conducted as soon as practicable but no later
7 than thirty (30) business days from the date the defendant was taken into
8 custody.

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

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

17 (1) ~~Revoking~~ Revoke the suspension of sentence or period of
18 probation; and

19 (2) ~~Sentencing~~ Sentence the defendant to incarceration in the
20 Department of Correction.

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

25 (f) The location of the appropriate confining facility in which a
26 defendant serves a period of confinement for a technical conditions violation
27 or a serious conditions violation shall be determined by the Board of
28 Corrections.

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

35 (h) To the extent that a participant in a specialty court program is
36 subject to this section, any period of confinement ordered by the specialty

1 court is not subject to the periods of confinement required under subdivision
2 (a)(4) of this section.

3
4 SECTION 20. Arkansas Code § 16-93-310 is amended to read as follows:
5 16-93-310. Probation generally – Revocation – Community correction
6 program.

7 (a) When a person sentenced under a community correction program, § 5-
8 4-312, violates any terms or conditions of his or her sentence or term of
9 probation, revocation of the sentence or term of probation shall be
10 consistent with the procedures under this subchapter.

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

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

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

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

25 (ii) That the initial placement in the Department of
26 Community Correction is conditioned upon the offender's continuing
27 eligibility for Department of Community Correction placement and the
28 offender's compliance with all applicable rules ~~and regulations~~ established
29 by the Board of Corrections for community correction programs.

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

32
33 SECTION 21. Arkansas Code § 16-93-705, concerning the procedures of
34 parole revocation, is amended to add a new subsection to read as follows:

35 (h) A parolee whose parole is revoked under this section due to a
36 technical conditions violation or serious conditions violation and is

1 sentenced to any period of incarceration resulting from that revocation is
2 subject to the periods of incarceration under § 16-93-715.

3
4 SECTION 22. Arkansas Code § 16-93-712 is amended to read as follows:
5 16-93-712. Parole supervision.

6 (a)(1) The Parole Board shall establish written policies and
7 procedures governing the supervision of parolees designed to enhance public
8 safety and to assist the parolees in reintegrating into society.

9 (2)(A) The supervision of parolees shall be based on evidence-
10 based practices including a validated risk-needs assessment.

11 (B) Decisions shall target the parolee's criminal risk
12 factors with appropriate supervision and treatment designed to reduce the
13 likelihood of reoffense.

14 (b) A parole officer shall:

15 (1) Investigate each case referred to him or her by the Chair of
16 the Parole Board, the Department of Community Correction, or the prosecuting
17 attorney;

18 (2) Furnish to each parolee under his or her supervision a
19 written statement of the conditions of parole and instruct the parolee that
20 he or she must stay in compliance with the conditions of parole or risk
21 revocation under § 16-93-705;

22 (3) Develop a case plan for each individual who is assessed as
23 being moderate to high risk to reoffend based on the risk and needs
24 assessment that targets the criminal risk factors identified in the
25 assessment, is responsive to individual characteristics, and provides
26 supervision of offenders according to that case plan;

27 (4) Stay informed of the parolee's conduct and condition through
28 visitation, required reporting, or other methods and shall report to the
29 board that information upon request;

30 (5) Use practicable and suitable methods that are consistent
31 with evidence-based practices to aid and encourage a parolee to improve his
32 or her conduct and condition and to reduce the risk of recidivism;

33 (6)(A) Conduct a validated risk-needs assessment of the parolee,
34 including without limitation criminal risk factors and specific individual
35 needs.

36 (B) The actuarial assessment shall include an initial

1 screening and, if necessary, a comprehensive assessment;

2 (7) Make decisions with the assistance of the risk-needs
3 assessment that are consistent with evidence-based practices on the type of
4 supervision and services necessary to each parolee; and

5 (8) Receive annual training on evidence-based practices and
6 criminal risk factors, as well as instruction on how to target these factors
7 to reduce recidivism.

8 (c)(1) The ~~department~~ Department of Community Correction shall
9 allocate resources, including the assignment of parole officers, to focus on
10 moderate-risk and high-risk offenders as determined by the validated risk-
11 needs assessment provided in subdivision (b)(6) of this section.

12 (2) The ~~department~~ Department of Community Correction shall
13 require each public and private treatment and service provider that receives
14 state funds for the treatment of or service for parolees to use evidence-
15 based programs and practices.

16 (d)(1) The ~~department~~ Department of Community Correction shall have
17 the authority to sanction a parolee administratively without engaging the
18 revocation process under § 16-93-705.

19 (2)(A)(i) The ~~department~~ Department of Community Correction
20 shall develop an intermediate sanctions procedure and grid to guide a parole
21 officer in determining the appropriate response to a violation of conditions
22 of supervision.

23 (ii) The intermediate sanctions procedure shall
24 include a requirement that the parole officer consider multiple factors when
25 determining the sanction to be imposed, including previous violations and
26 sanctions and the severity of the current and prior violation.

27 (B) Intermediate sanctions administered by the ~~department~~
28 Department of Community Correction are required to conform to the sanctioning
29 grid.

30 (3) Intermediate sanctions shall include without limitation:

31 (A) Day reporting;

32 (B) Community service;

33 (C) Increased substance abuse screening or treatment, or
34 both;

35 (D) Increased monitoring, including electronic monitoring
36 and home confinement; and

1 (E)(i) Incarceration in a county jail for no more than
2 seven (7) days or incarceration in a Department of Community Correction
3 facility or Department of Correction facility for no more than one hundred
4 eighty (180) days.

5 (ii)(a) Incarceration as an intermediate sanction
6 shall not be used more than ~~seven (7)~~ six (6) times with an individual
7 parolee, and no parolee shall accumulate more than ~~twenty-one (21) days'~~
8 ~~incarceration as an intermediate sanction before the parole officer files for~~
9 ~~revocation under § 16-93-706.~~

10 (b) A parolee shall accumulate no more than
11 twenty-one (21) days' incarceration in a county jail or no more than three
12 hundred sixty (360) days' incarceration in a Department of Community
13 Correction facility or Department of Correction facility as an intermediate
14 sanction before the parole officer recommends a violation of the person's
15 parole under § 16-93-706.

16 (c) A parolee is subject to a period of
17 incarceration of:

18 (1) Up to ninety (90) days in a
19 Department of Community Correction facility or Department of Correction
20 facility for a technical conditions violation; and

21 (2) Exactly one hundred eighty
22 (180) days in a Department of Community Correction or Department of
23 Correction facility for a serious conditions violation.

24 (d) A parolee may not be incarcerated
25 more than two (2) times as a parole sanction in a Department of Community
26 Correction facility or Department of Correction facility.

27 (e) Any time in custody for which the parolee is held before a period
28 of incarceration under this section is administered shall not count as period
29 of incarceration ordered under (d)(3)(E)(ii)(a) of this section or toward the
30 total accumulation of days of incarceration as set forth in subdivision
31 (d)(3)(E)(ii)(b) of this section.

32 (f) A period of incarceration under this section:

33 (1) May be reduced by the Department of Correction or the
34 Department of Community Correction for good behavior and successful program
35 completion; and

36 (2) Shall not be reduced under this section for more than fifty

1 percent (50%) of the total time of incarceration ordered to be served.

2 (g) If a parolee is in custody in a county jail awaiting an
3 administrative sanction under this section, the state shall reimburse the
4 county for the costs of incarceration at the prevailing rate of
5 reimbursement.

6
7 SECTION 23. Arkansas Code Title 16, Chapter 93, Subchapter 7, is
8 amended to add an additional section to read as follows:

9 16-93-715. Revocation – Technical conditions violations and serious
10 conditions violations.

11 (a)(1) If a parolee is subject to a parole revocation hearing under
12 this subchapter for a technical conditions violation or a serious conditions
13 violation, the parolee is subject to confinement for the following periods,
14 subject to subdivision (a)(2)(A) of this section, before being released and
15 returned to parole supervision:

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

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

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

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

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

30 (b)(1) Except as provided for in subdivision (b)(2) of this section,
31 if a parolee is subject to a revocation hearing under this subchapter or an
32 administrative parole sanction for a technical conditions violation or a
33 serious conditions violation, the parolee is subject to confinement according
34 to the time periods set out in § 16-93-712(d) and subdivision (a)(1) of this
35 section without having his or her parole revoked.

36 (2)(A) A parolee is subject to having his or her parole revoked

1 and being returned to the Department of Correction or the Department of
2 Community Correction for the next violation of his or her parole if the
3 parolee has been confined six (6) times under § 16-93-712(d).

4 (B) After a parolee has been confined two (2) times under
5 subsection (a)(1) of this section for any combination of a technical
6 conditions violation or serious conditions violation for any period of time,
7 the parolee is subject to having his or her parole revoked and being returned
8 to the Department of Correction or the Department of Community Correction for
9 the next violation of his or her parole.

10 (C) A parolee is subject to having his or her parole
11 revoked and being returned to the Department of Correction or the Department
12 of Community Correction under this section without having been sanctioned for
13 a period of confinement set out under § 16-93-712(d) or subsection (a)(1) of
14 this section if the Parole Board determines by a preponderance of the
15 evidence that the parolee is engaging in or has engaged in behavior that
16 poses a threat to the community.

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

20 (d) A period of confinement that a parolee serves as a result of being
21 arrested for a parole violation but before being administratively sanctioned
22 shall not count as a period of confinement for the purposes of the aggregate
23 number of periods of confinement under this section.

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

31
32 SECTION 24. Arkansas Code § 16-93-1202(6), concerning the definition
33 of "eligibility" or "eligible offender" in the context of community
34 correction, is amended to read as follows:

35 (6) "Eligibility" or "eligible offender" means any person
36 convicted of a felony who is by law eligible for such sentence or who is

1 otherwise under the supervision of the Department of Community Correction and
2 who falls within the population targeted by the General Assembly for
3 inclusion in community correction facilities ~~or who is otherwise under the~~
4 ~~supervision of the Department of Community Correction~~ and who has not been
5 subject to a disciplinary violation for a violent act or for sexual
6 misconduct while in the custody of a jail or correctional facility and does
7 not have a current or previous conviction for a violent or sexual offense
8 listed under subdivision (10)(A)(iii) of this section;

9
10 SECTION 25. Arkansas Code § 16-93-1202(10), concerning the definition
11 of "target group" in the context of community correction, is amended to read
12 as follows:

13 (10)(A)(i) "Target group" means a group of offenders and
14 offenses determined to be, but not limited to, theft, theft by receiving, hot
15 checks, residential burglary, commercial burglary, failure to appear,
16 fraudulent use of credit cards, criminal mischief, breaking or entering, drug
17 paraphernalia, driving while intoxicated, fourth or subsequent offense, all
18 other Class B felonies, Class C felonies, or Class D felonies that are not
19 either violent or sexual and that meet the eligibility criteria determined by
20 the General Assembly to have significant impact on the use of correctional
21 resources, Class A controlled substance felonies and Class B controlled
22 substance felonies, and all other unclassified felonies for which the
23 prescribed limitations on a sentence do not exceed the prescribed limitations
24 for a ~~Class C~~ Class B felony and that are not either violent or sexual.

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

28 (iii) As used in this subdivision (10)(A), "violent
29 or sexual" includes all offenses against the person codified in § 5-10-101 et
30 seq., § 5-11-101 et seq., § 5-12-101 et seq., § 5-13-201 et seq., § 5-13-301
31 et seq., and § 5-14-101 et seq., ~~and~~ any offense containing as an element of
32 the offense the use of physical force, the threatened use of serious physical
33 force, the infliction of physical harm, or the creation of a substantial risk
34 of serious physical harm, and an offense for which the offender is required
35 to register as a sex offender under the Sex Offender Registration Act of
36 1997, § 12-12-901 et seq.

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

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

11 (C) Final determination of eligibility for placement in
12 any community correction center or program is the responsibility of the
13 Department of Community Correction;

14
15 SECTION 26. Arkansas Code § 16-93-1202(13), concerning the definition
16 of "trial court" in the context of community correction, is amended to read
17 as follows:

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

22
23 SECTION 27. Arkansas Code § 16-98-303(b)(2), concerning the
24 responsibilities of the Department of Community Correction for a drug court
25 program, is amended to read as follows:

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

30 (A) Shall:

31 (i) Establish standards regarding the classification
32 of a drug court program participant as a high-risk offender or medium-risk
33 offender;

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

36 (iii) Provide for drug testing for drug court

1 program participants;

2 (iv) Provide for intensive outpatient treatment for
3 drug court program participants;

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

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

10 (B) May:

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

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

18
19 SECTION 28. Arkansas Code § 20-47-101 is repealed as the process of
20 arrest and citation by a law enforcement officer is already addressed under
21 the Arkansas Rules of Criminal Procedure.

22 ~~20-47-101. Officers' duty to arrest insane and drunken persons.~~

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

27
28 SECTION 29. Arkansas Code § 20-47-102 is repealed as the authority of
29 a law enforcement officer to initiate the commitment process for an
30 individual in circuit court already exists under Arkansas law.

31 ~~20-47-102. Officer's duty to make application to circuit court.~~

32 ~~Whenever any sheriff, coroner, or constable shall discover any person~~
33 ~~to be of unsound mind who resides in the county, it shall be his or her duty~~
34 ~~to make application to the circuit court for the exercise of its~~
35 ~~jurisdiction, and thereupon the like proceedings shall be had as directed in~~
36 ~~§ 20-47-103.~~

1
2 SECTION 30. Arkansas Code § 20-47-103 is repealed as the authority of
3 a law enforcement officer to initiate the commitment process for an
4 individual in circuit court already exists under Arkansas law.

5 ~~20-47-103. Mental health judicial inquiry.~~

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

12
13 SECTION 31. Arkansas Code § 20-47-104 is repealed as the commitment
14 process for an individual in circuit court already exists under Arkansas law.

15 ~~20-47-104. Detention prior to commitment to hospital.~~

16 ~~The circuit court with venue and jurisdiction of a person whose~~
17 ~~involuntary admission is sought shall make such orders as may be necessary to~~
18 ~~keep that person in restraint until the person can be sent by due process of~~
19 ~~law to the Arkansas State Hospital.~~

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

22 20-47-105. Liability for costs of proceedings.

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

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

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

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

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

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

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

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

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

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

SECTION 35. Arkansas Code § 20-47-109 is amended to read as follows:
20-47-109. Abuse of patients prohibited.

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

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

(2) Upon receiving a written report of a violation of this section, the director shall immediately investigate the incident and submit a

1 report of the result of his or her findings to the Department of Human
2 Services State Institutional System Board at ~~the~~ its next regular meeting
3 ~~thereof~~.

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

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

12
13 SECTION 36. Arkansas Code Title 20, Chapter 47, is amended to add an
14 additional subchapter to read as follows:

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

16
17 20-47-801. Title.

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

20
21 20-47-802. Legislative intent.

22 (a) It is the intent of the General Assembly to create an established
23 protocol for crisis intervention by law enforcement agencies and jail
24 personnel, the court system, hospitals, healthcare providers, and mental
25 health professionals to address the methods and procedures to be used by law
26 enforcement agencies and jail personnel, the court system, hospitals,
27 healthcare providers, and mental health professionals in engaging with an
28 individual who demonstrates substantial likelihood of committing bodily harm
29 against himself or herself, or against another person, and who is an
30 individual with a behavioral health impairment, mental disability, mental
31 illness, or other permanent or temporary behavioral health or mental
32 impairment.

33 (b) Further, it is the intent of the General Assembly that the
34 behavioral health crisis intervention protocol created under this subchapter
35 and established to address engagement with a member of the public who is an
36 individual with a behavioral health impairment results not in incarceration

1 or prosecution but in a lawful detention of the individual until his or her
2 behavioral health impairment is managed to the point that the individual is
3 substantially less likely to commit a criminal or otherwise dangerous act.
4

5 20-47-803. Definitions.

6 As used in this subchapter:

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

8 (A) Ambulating;

9 (B) Transferring;

10 (C) Eating;

11 (D) Bathing;

12 (E) Dressing;

13 (F) Grooming; and

14 (G) Toileting;

15 (2)(A) "Behavioral health impairment" means a substantial
16 impairment of emotional processes, the ability to exercise conscious control
17 of one's actions, or the ability to perceive reality or to reason, when the
18 impairment is manifested by instances of extremely abnormal behavior or
19 extremely faulty perceptions that interfere with one (1) or more activities
20 of daily living.

21 (B) "Behavioral health impairment" may include a temporary
22 behavioral health or mental impairment that results when an individual is
23 under the influence of alcohol or a controlled substance to the extent that
24 the impairment is substantial to the point of meeting the definition under
25 subdivision (2)(A) of this section and is a manifestation of a mental health
26 condition or a substance abuse disorder;

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

29 (4) "Comprehensive psychiatric emergency service" means a
30 specialized psychiatric service operated by a crisis stabilization unit and
31 located in or near a hospital or other facility that can provide psychiatric
32 emergency services for a period of time greater than can be provided in the
33 hospital or other facility;

34 (5) "Crisis intervention protocol" means the implementation of
35 established methods and procedures, including the creation of a behavioral
36 health crisis intervention team and establishment of a crisis stabilization

1 unit, to address a criminal or otherwise dangerous act by a member of the
2 public who is an individual with a behavioral health impairment in a manner
3 that results in the management of the individual's behavioral health
4 impairment to the point that the individual is substantially less likely to
5 commit a criminal or otherwise dangerous act;

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

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

11 (7) "Crisis intervention team officer" means a law enforcement
12 officer who is:

13 (A) Authorized to make arrests under the laws of this
14 state;

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

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

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

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

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

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

31 (12) "Participating partner" means a law enforcement agency, a
32 community mental health center, a consumer, a crisis stabilization unit, a
33 mental health services provider, mental health professional, or a hospital
34 that has entered into the collaborative agreement required under § 20-47-805
35 to implement a crisis intervention protocol;

36 (13) "Psychiatric emergency services" means services provided by

1 mental health professionals that are designed to reduce the acute psychiatric
2 symptoms of an individual with a behavioral health impairment and, when
3 possible, to stabilize that individual so that continuing treatment can be
4 provided in the individual's community;

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

9 (A) Has completed at least one (1) year of advanced
10 practice nursing as a clinical nurse practitioner or clinical nurse
11 specialist; and

12 (B) Is working within the scope of practice as authorized
13 by law;

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

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

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

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

21 (A) That an individual:

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

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

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

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

31 (B) There is substantial likelihood that serious bodily
32 harm will occur unless the individual is provided psychiatric emergency
33 services and treatment; and

34 (17) "Triage and referral services" means services designed to
35 provide evaluation of an individual with a behavioral health impairment as
36 defined under subdivision (2)(A) of this section in order to direct that

1 individual to a community mental health center, mental health facility,
2 hospital, or other mental health services provider that can provide
3 appropriate treatment.

4
5 20-47-804. Crisis intervention protocol not exclusive – Voluntary stay
6 at crisis stabilization unit.

7 (a) If during or after the initiation of a crisis intervention
8 protocol under this subchapter a mental health professional or medical
9 professional believes the individual being detained would benefit more from a
10 longer commitment in a residential facility, the mental health professional
11 or medical professional may institute commitment proceedings as authorized
12 under § 20-47-201 et seq.

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

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

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

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

28 (C) The crisis stabilization unit agrees to allow the
29 individual to remain at the crisis stabilization unit.

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

33 (B) A crisis stabilization unit may:

34 (1) Discharge an individual who is released from
35 custody and remains at the crisis stabilization unit voluntarily at its
36 discretion;

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

5
6 20-47-805. Establishment of crisis intervention teams.

7 (a) As part of a crisis intervention protocol established under this
8 subchapter, a law enforcement agency or community mental health center, as a
9 participating partner, is authorized to establish a crisis intervention team
10 or multiple crisis intervention teams to provide psychiatric emergency
11 services and triage and referral services for individuals with a behavioral
12 health impairment who demonstrate substantial likelihood of committing bodily
13 harm against themselves or against another person as a more humane
14 alternative to confinement in a jail.

15 (b) A crisis intervention team shall have at least one (1) designated
16 hospital or community mental health center within the specified crisis
17 stabilization unit catchment area that has agreed to serve as a crisis
18 stabilization unit and to provide psychiatric emergency services, triage and
19 referral services, and other appropriate medical services for individuals in
20 the custody of a crisis intervention team officer or who have been referred
21 by the community mental health center within the specified crisis
22 stabilization unit catchment area.

23 (c)(1) As a participating partner and serving as a crisis
24 stabilization unit, a hospital, community mental health center, or mental
25 health facility may establish a comprehensive psychiatric emergency service
26 to provide psychiatric emergency services to an individual with a behavioral
27 health impairment for a period of time greater than allowed in a hospital or
28 other facility's emergency department when, in the opinion of the treating
29 physician, psychiatric nurse practitioner, or psychiatric physician
30 assistant, the individual is likely to be stabilized within seventy-two (72)
31 hours so that continuing treatment can be provided in the local community
32 rather than a crisis stabilization unit or the Arkansas State Hospital.

33 (2)(A) During the time an individual with a behavioral health
34 impairment is under a crisis intervention protocol and detained at a crisis
35 stabilization unit, the individual is considered to be in the custody of the
36 law enforcement agency that detained the individual.

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

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

8 (2) For the purpose of addressing unique rural service delivery
9 needs and conditions, the Department of Human Services may authorize two (2)
10 or more hospitals, community mental health centers, or mental health services
11 providers to collaborate in the development of crisis intervention teams and
12 comprehensive psychiatric emergency services and shall facilitate any
13 collaboration authorized.

14
15 20-47-806. Crisis intervention protocol – Collaborative agreements.

16 (a) A proposed crisis intervention protocol and crisis intervention
17 team shall include necessary collaborative agreements among the participating
18 hospitals, community health centers, mental health service providers,
19 participating law enforcement agencies, and the facility that is designated
20 as the crisis stabilization unit for the crisis stabilization unit catchment
21 area.

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

27 (A) The law enforcement agency employs:

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

31 (ii) A crisis intervention team officer operating
32 within the crisis stabilization unit catchment area and has entered into an
33 agreement with another law enforcement agency to transport an individual to a
34 crisis stabilization unit; and

35 (B) The individual has been taken into custody or is
36 detained because the individual demonstrates the substantial likelihood of

1 committing bodily harm against himself or herself or against another person.

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

7
8 20-47-807. Crisis stabilization units – Operations.

9 (a)(1) The internal operation of a crisis stabilization unit shall be
10 governed by the administration of a facility designated as the crisis
11 stabilization unit and regulated by the Department of Human Services or a
12 division of the department.

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

16 (b)(1) A facility operating as a crisis stabilization unit under a
17 crisis intervention protocol shall appoint a unit director to oversee the
18 operation of the facility-based service.

19 (2) The unit director shall assure that the services provided
20 are within the guidelines established by the collaborative agreements under §
21 20-47-806(a).

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

25
26 20-47-808. Determination of need to initiate crisis intervention
27 protocol.

28 (a)(1) If a crisis intervention team officer determines that an
29 individual with a behavioral health impairment demonstrates a substantial
30 likelihood of committing bodily harm to himself or herself or to another
31 person, the crisis intervention team officer may take the individual into
32 custody for the purpose of transporting the individual to the designated
33 crisis stabilization unit serving the crisis stabilization unit catchment
34 area in which the officer has jurisdiction.

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

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

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

9 (c)(1) An individual transported by a crisis intervention team officer
10 to the crisis stabilization unit or a individual referred by the community
11 mental health center under the guidelines of a collaborative agreement under
12 § 20-47-806(a) shall be examined by a physician, psychiatric nurse
13 practitioner, psychiatric physician assistant, or mental health professional.

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

21 (3) If the physician, psychiatric nurse practitioner,
22 psychiatric physician assistant, or mental health professional determines
23 that the individual demonstrates a substantial likelihood of committing
24 bodily harm against himself or herself or against another person because of a
25 behavioral health impairment caused by alcohol or a controlled substance and
26 that there is no reasonable less restrictive alternative, the individual may
27 be held at the crisis stabilization unit until the behavioral health
28 impairment has resolved and the individual no longer demonstrates a
29 substantial likelihood of committing bodily harm to himself or herself or
30 against another person.

31
32 20-47-809. Implementation of psychiatric emergency services.

33 (a)(1) To implement psychiatric emergency services under a crisis
34 intervention protocol under this subchapter, a crisis stabilization unit
35 shall request licensure from the Department of Human Services for the number
36 of extended observation beds that are required to adequately serve the

1 designated crisis stabilization unit catchment area.

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

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

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

17 (d)(1) A psychiatric emergency service provided by a crisis
18 stabilization unit shall have at least one (1) physician, one (1) psychiatric
19 nurse practitioner, one (1) psychiatric physician assistant, or one (1)
20 mental health professional who is a member of the staff of the crisis
21 stabilization unit and who is on duty and available at all times.

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

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

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

32 (C) The physician, psychiatric nurse practitioner,
33 psychiatric physician assistant, or mental health professional on call for
34 the psychiatric emergency service to evaluate the individual with a
35 behavioral health impairment onsite within twelve (12) hours of the
36 individual's admission.

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

4
5 20-47-810. Seventy-two-hour maximum time of detention.

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

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

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

17 (d) As part of the discharge process after the seventy-two (72) hour
18 hold has expired and the individual is being released from custody, and
19 subject to the consent of the person no longer in custody, a crisis
20 stabilization unit may provide the individual with a follow-up treatment plan
21 and a request that the individual utilize the treatment plan, including
22 subsequent appointments with a mental health professional.

23
24 20-47-811. Immunity from liability.

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

29
30 20-47-812. Development of crisis intervention protocols.

31 (a)(1) A director of a community mental health center shall actively
32 encourage hospitals, community mental health centers, mental health services
33 providers, and other mental health professionals to develop psychiatric
34 emergency services.

35 (2) If a collaborative agreement can be negotiated with a
36 hospital, community mental health center, or other healthcare facility that

1 can provide a comprehensive psychiatric emergency service, that hospital,
2 community mental health center, or other healthcare facility shall be given
3 priority when designating the single point of entry.

4 (b) The Department of Human Services shall encourage community mental
5 health center directors to actively work with hospitals, mental health
6 services providers, other mental health professionals, and law enforcement
7 agencies to develop a crisis intervention protocol and associated crisis
8 intervention teams and psychiatric emergency services and shall facilitate
9 the development of those collaborations.

10
11 20-47-813. Rulemaking authority.

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

15
16 SECTION 37. DO NOT CODIFY. Effective date:

17 (a) Sections 16 through 23 of this act are effective on and after
18 October 1, 2017.

19 (b) Section 15 of this act is effective on and after January 1, 2018.

20
21 /s/J. Hutchinson
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