Arkansas County SHERIFFS 2022 Procedures Manual

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FOREWORD

This County Sheriff's procedures manual was compiled by the Association of Arkansas Counties staff and reviewed by AAC staff. It reflects the current law through the 2021 legislative session and includes a description of the duties, responsibilities, and procedures of the Sheriff's office. It is not to be construed as legal advice. It presents the law for your information and guidance, but specific legal questions should be directed to your county attorney.

We hope this procedures manual will be of help to you as you do the day-to-day business of your county.

Chris Villines
Executive Director

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Chapter 1 - INTRODUCTION TO COUNTY GOVERNMENT

County government is a political subdivision of the state. County government provides services to all of the citizens of the county, and every resident of Arkansas lives in a county. The services that every county must provide include: (1) the administration of justice through the courts; (2) law enforcement protection and the operation of the jail (3) real and personal property tax administration, including assessments, collection, and custody of tax proceeds; (4) court and public records management; and (5) the required services prescribed by state law provided through the various elected county officers or departments of county government such as providing and managing a county road system, elections and financial management just to name a few things. Counties may provide for the establishment of any service or performance of any function that is not expressly prohibited by law. These services and functions include, but are not limited to, things like agricultural extension services; community and rural development services; libraries; park and recreation services; emergency medical services; fire prevention and protection services; solid waste collection and disposal services; public health services; and any other services related to county affairs (ACA 14-14-802).

County government elects nine executive officers and a countywide legislative body called the Quorum Court to provide these various services. The nine elected officials are county judge, sheriff, county clerk, circuit clerk, collector, assessor, treasurer, coroner and surveyor. Some counties combine two of these offices into one, such as county clerk/circuit clerk, sheriff/collector, or treasurer/collector. Also, not all counties elect a surveyor and in the counties that do elect them, this job is usually not a full-time position. The county legislative body is entitled the Quorum Court and is composed of 9-15 members called Justices of the Peace. These justices of the peace are district officers and not county officials because they represent a district within the county.

The chief executive officer for county government in Arkansas is the **county judge.** As chief executive, the judge authorizes and approves the disbursement of all appropriated county funds, operates the system of county roads, administers ordinances enacted by the quorum court, has custody of county property, accepts grants from federal, state, public and private sources, hires county employees except those persons employed by other elected officials of the county, and presides over the quorum court without a vote, but with the power of veto. (ACA 14-14-1101 - 1102)

All powers not vested in the county judge as the chief executive officer of the county shall continue to be exercised and administered by the county court, over which the county judge shall preside. The county court, in fact, is the county judge sitting in a judicial role.

The **county court** of each county has exclusive original jurisdiction in all matters relating to:

1. County Taxes: Including real and personal ad valorem taxes collected by county government. The county court's authority in this area includes jurisdiction over the assessment of property, equalization of assessments on appeal, tax levies, tax collections, and the distribution of tax proceeds.

2. Paupers: The court's jurisdiction includes all county administrative actions affecting the conduct of human services programs serving indigent residents of the county where such services are financed in total or in part by county funds.

3. Jurisdiction in each other case that may be necessary to the internal improvement and local concerns of the respective counties including county financial activities and works of general public utility or advantage designed to promote intercommunication, trade and commerce, transportation of persons and property, or the development of natural resources, which are not otherwise transferred to the county judges to be administered in an executive capacity.

4. The county court shall have all other jurisdiction now vested by law in the county court except with respect to those powers formerly vested in the county court under the provisions of Section 28 of Article 7 of the Constitution which were transferred to the county judge under the provisions of Section 3 of Amendment 55 to the Arkansas Constitution, (and those powers removed by Amendment 67 as they pertain to the apprenticeship of minors. (ACA 14-14-1105)

In addition to the duties of the county court, the county judge is responsible for coordinating the day-to-day inter-governmental relations between the various state and federal agencies operating at the county level. The judge must also apply for all federal and state assistance moneys for which the county is eligible, and appoints the members to all administrative and advisory boards in the county, some of which have to be confirmed by the quorum court.

The **county sheriff** is the sheriff of the courts, maintains public peace, and has custody of the county jail. As chief enforcement officer of the circuit courts, the sheriff's office, which includes the sheriff and deputies, is charged by constitutional and statutory laws with the execution of summons, enforcement of judgments, orders, injunctions, garnishments, attachments, and the making of arrests on warrants issued by the courts. The sheriff also opens and attends each term of circuit court, notifies residents selected to jury duty and assists in handling witnesses and prisoners during a given court term.

The sheriff, or a member of that staff, often prepares and assembles evidence of the Prosecuting Attorney's case against defendants charged with both felonies and misdemeanors. The sheriff also transports convicted prisoners and others declared by the court to the various penal and mental institutions of the state.

The sheriff in every county has the custody, rule, and charge of the county jail and all prisoners committed in his county (ACA 12-41-502). The sheriff shall be conservator of the peace in his county (ACA 14-15-501). It shall be the duty of each sheriff to quell and suppress all assaults and batteries, affrays, insurrections, and unlawful assemblies; and he shall apprehend and commit to jail all felons and other offenders (ACA 14-14-1301). The sheriff also works with the various local municipal law enforcement officials or other state and federal officials charged with law enforcement.

The **county clerk** is the official bookkeeper of county government and serves as the clerk for the county, quorum and probate courts.

As clerk of the county court, the clerk has the duty of keeping a regular account between the treasurer and the county. The clerk charges the treasurer with all moneys received and credits the treasurer with all moneys dispersed. In addition, the clerk keeps an accurate account of all financial transactions within the county and files all documents, vouchers, and other papers pertaining to the settlement of any account to which the county is involved. It is the responsibility of the county clerk to prepare all checks on the treasury for moneys ordered to be paid by the county court and to keep complete and accurate records of all these financial transactions ready for the court's inspection at any time (ACA 16-20-402). [An alternate method of the county treasurer issuing checks, allowed by ACA 14-24-204, is used by many counties.]

The county clerk shall serve, unless otherwise designated by county ordinance, as the secretariat of the quorum court. These duties involve keeping a complete permanent record of the proceedings of the Quorum Court including minutes, ordinances, resolutions and an index to provide easy access to the information (ACA 14-14-902 and 14-14-903).

As clerk to the probate court, the clerk files all instruments making them a matter of record in decedent estate cases, and swears in all witnesses in contested estates. The clerk, also in this capacity, maintains all records relative to adoptions and guardianship cases within the county.
The county clerk, or the clerk's designee, serves as the secretary of the Board of Equalization and records the minutes of their meetings (ACA 26-27-307). Also, if the clerk is the preparer of tax books for the county, the clerk is responsible for extending the taxes in the information provided by the assessor and the Board of Equalization (ACA 26-28-101 through 26-28-108).

The clerk became the official voter registrar with the adoption of Amendment 51 to the Arkansas Constitution in 1966. The clerk maintains an accurate and up-to-date voter registration list within the office and stores the ballot boxes between elections. In addition, the clerk is the custodian of absentee ballots and is responsible for early voting. It is common practice in many counties for the county clerk to assist the county election commission in the overall performance of the election process. With the increasing complexity of elections, however, there is an increasing trend towards the hiring of election coordinators to aid the county election commission and the county clerk in their respective election responsibilities. (ACA 7-5-401 et seq.)

The clerk issues marriage licenses (ACA 9-11-201), and keeps a record of all firms in the county which have incorporated (ACA 4-26-1201). The clerk issues special licenses allowing certain activities (ACA 26-76-102).

The **circuit clerk** is the clerk of the circuit court and juvenile court and usually acts as the ex-officio recorder of the county.

Unless otherwise provided by law, the county recorder is the circuit clerk of the county. In a county that under law has assigned the duties of the county recorder to the county clerk, all Code references to circuit clerk that concern recording functions shall mean the county clerk.

The administrative duties of the circuit clerk are to maintain a record of all proceedings of the circuit courts to enter docket number and name of the defendant and to prepare the dockets for these courts (ACA 16-20-102). The circuit clerk prepares summons, warrants, orders, judgments, and injunctions authorized by the circuit court for delivery by the county sheriff. The circuit clerk also maintains a file of all cases pending in either court, as well as a record of all past court cases and their disposition (ACA 16-20-303 and 16-20-304). The clerk has 20 days before commencement of each of the dockets in all cases. In addition, the circuit clerk acts as a secretary to the jury commission by keeping a list of all prospective jurors (ACA 16-32-101 et seq.)

The circuit clerk is also the ex-officio county recorder; and is responsible for recording deeds, mortgages, liens, and surety bonds, and many other orders and instruments which involve property within the county (ACA 14-15-401 et seq). The circuit clerk maintains a record of many miscellaneous items, and files certain licenses. The circuit clerk also swears in all notaries public and files regulations of state agencies which license trade or professional workers.

The **county collector** is the collector of taxes for the county and collects municipal, county, school and improvement district taxes and turns them over to the county treasurer. The collector is responsible for collecting all property taxes from the first day of March to the fifteenth day of October during the calendar year after they are assessed. By statute, the collector is required to turn over all tax revenue to the treasurer at least once a month (ACA 26-39-201). The County Depository Board may require the collector and other county officials to settle with the county treasurer

more frequently than once a month (ACA 19-8-106). Taxpayers may pay their taxes in installments, with one-fourth of the total being due between March and April, one-fourth being due between April and July, and the remaining one-half between July and October 15 (ACA 26-35-501).

Any real or personal property taxes not paid by the fifteenth day of October, or falling within one of the exceptions to the requirement that taxes be paid by October 15 of each year (i.e., postmarked prior to October 15 or paid after October 15 if the fifteenth falls on a weekend or holiday), are considered delinquent and the collector extends a 10% penalty against the taxpayer (ACA 26-36-201). Before December 1st of each year, the collector of taxes shall prepare a list of delinquent personal property taxes and deliver a copy of the list to a legal newspaper in the county. Within seven (7) days thereafter, the newspaper shall publish the list. If there is no newspaper in the county or district, the publication shall be in the nearest newspaper having a general circulation in the county or districts for which the list is being published. (ACA 26-36-203)

The duty of the **county assessor** is to appraise and assess all real property between the first Monday of January and the first of July, and all personal property between the first Monday in January and the thirty-first of May. (ACA 26-26-1408 and 26-26-1101). All property in the state shall be assessed according to its value on the first of January except merchants and manufacturers inventory that is assessed at its average value during the year immediately preceding the first of January (ACA 26-26-1201).

The assessor must make an abstract of assessment showing the total assessed value of the county. On August 1st, the assessor turns over to the County Equalization Board his/her Real Property Assessment Book and his/her Personal Property Assessment Book.

The assessor is required to maintain current appraisal and assessment records by securing necessary filed data and making changes in valuations as they occur in land use and improvements. He/she is also charged with staying abreast of all property transactions within the county and keeping a file on all properties updated throughout the year (ACA 26-26-715).

The **county treasurer** is the disbursement officer of the county, and is the unofficial or quasi comptroller. A few counties do have a county comptroller. The treasurer is responsible for the custody and disbursement of all county funds and school district funds. The treasurer, therefore, receives county property tax collections, county sales tax collections, county turnback funds, grant funds, fees and fines from other county officials and departments, and revenues from various other sources. The treasurer, after receiving this revenue, distributes the money to the various taxing entities and the other units of the county. The county treasurer signs checks, prepared and signed by the county clerk indicating that the expenditure has been authorized by the county court, to pay employees and creditors of the county. A copy of each check serves as a warrant and is filed in the county financial records. ACA 14-24-204 provides for an alternate method whereby the county treasurer prepares and issues the check.

The treasurer must keep an accurate and detailed account of all receipts and disbursements of the county (ACA 14-15-807). The treasurer is required to make a monthly financial report to the quorum court on the fiscal condition of the county (ACA 14-20-105).

The county treasurer is required to charge a two percent commission on all funds coming to his/her office. There are a few exceptions. No commission is allowed for the handling of borrowed money, proceeds of school bond sales, the teacher's salary fund, money collected from insurance on losses, fire protection premium taxes (Act 833 funds for fire departments, but inactive fire departments will not receive funding under this section) and all non-revenue receipts, which is defined as reimbursement of all or a part of a payment made by a county (ACA 21-6-302, 6-17-908, 6-20-221 and 14-284-403). Also, the county treasurer is allowed a smaller commission, 1/4 of 1%, on funds from school districts that employ their own treasurer (ACA 6-13-701) and 1/8 of 1% on funds from municipal improvement districts (ACA 14-90-913). The commission is not kept by the treasurer but is intended to create a source of revenue accruing to the office from which the salary and operation of the office is paid. Any excess treasurer's commission shall be redistributed to the various entities that were charged on a pro-rata basis (AG Opinion #78-112).

The **county coroner** is charged with the responsibility of determining the cause of death for those deaths properly the responsibility of the coroner. Although the duties of the county coroner are, necessarily, intermittent, the office is a full-time position. The coroner is tasked with the investigation of deaths occurring within the county 24 hours a day, 7 days a week and 365 days per year. At any time the coroner is required to investigate deaths. When a death is reported to the coroner, he shall conduct an investigation concerning the circumstances surrounding the death of an individual and gather and review background information, including but not limited to, medical information and any other information which may be helpful in determining the cause and manner of death. (ACA 14-15-301). These duties are mandated to be completed in very short timeframes.

The **county surveyor** locates boundaries of specific properties at the request of the assessor, and establishes disputed property lines upon request of the county, circuit or chancery court (ACA 14-15-702). The surveyor is also county timber inspector and determines the amount of timber cut, records the log markings, and prosecutes persons who remove timber from state owned lands (ACA 15-32-201).

A **constable** is a constitutional township official not a county official as some might think. A constable is charged, by law, to conserve the peace in his township (ACA 16-19-301). In order for a constable to have access to information from the Arkansas Crime Information Center

and to carry a firearm, the officer must receive required training. Uniform and vehicle requirements are also mandated for constables in the performance of official duties (ACA 14-14-1314).

14-14-13-14. Constable training requirements—uniform requirements

(a)(1)(A) For a constable to have access to information from the Arkansas Crime Information Center:

(i) He or she shall satisfactorily complete the constable certification course provided by the Arkansas Commission on Law Enforcement Standards and Training; and

(ii) Each year after completing the certification course required under subdivision (a)(1)(A)(i) of this section, he or she shall satisfactorily complete sixteen (16) hours of training certified by the Arkansas Commission on Law Enforcement Standards and Training.

(B) For a constable to carry a firearm:

(i) He or she shall attend sixteen (16) hours of firearms training; and

(ii) Each year after completing the training required under subdivision (a)(1)(B)(i) of this section, he or she shall satisfy the firearm qualification standards for a law enforcement official.

(2) A constable holding office on July 31, 2007, is exempt from the requirements of subdivision (a)(1) of this section if the constable has completed:

(A) The Part-time Law Enforcement Officer training or higher level training course; and

(B) Mandatory racial profiling courses.

(b)(1) In the performance of his or her official duties, a constable shall wear a uniform consisting of:

(A) A white shirt on formal occasions at any time;

(B)(i) A constable identification patch on the left shoulder of the shirt and an American flag on the right shoulder.

(ii) The top of each patch shall be one inch (1″) down from the shoulder seam of the shirt;

(C) A name tag above the right pocket flap of the shirt;

(D) A six-point star containing the words "Arkansas Constable" on the left side of the shirt; and

(E) The following pants:

(i) Tan pants; or

(ii) Blue or black pants on formal occasions.

(2) If a constable is engaged in search or rescue activities, he or she shall wear a uniform consisting of:

(A) A black shirt; and

(B) Black pants.

(c) In the performance of his or her official duties, a constable shall drive a motor vehicle that is:

(1) Equipped with emergency equipment; and

(2) Clearly marked with a six-point star and the words "Arkansas Constable".

(d) The county may pay reasonable expenses associated with the requirements of this section.

The legislative body of county government is called the quorum court and is composed of 9, 11, 13 or 15 members depending on the population of the county. The quorum court members are called justices of the peace and are elected for two-year terms from districts within the county. These district officials meet each month, more often if necessary, to conduct county business and review ordinances and resolutions for passage. The county judge is the presiding officer over the quorum court without a vote, but with the power of veto. This veto can be overridden with a 3/5ths vote of the total membership of the quorum court. (See generally ACA 14-14-801 et seq and 14-14-901 et seq.)

As provided by Amendment No. 55 of the Arkansas Constitution, a county government acting through its quorum court may exercise local legislative authority not expressly prohibited by the Constitution or by law for the affairs of the county (ACA 14-14-801). Some limitations are: The quorum court cannot declare any act a felony (felonies are covered by the State Criminal Code); quorum courts may not participate in the day-to-day administration of county executive branch offices and exercise no authority unrelated to county affairs (ACA 14-14-806).

The quorum court may exercise the following powers, but not limited to: A) the levy of taxes in manner prescribed by law; B) appropriate public funds for the expenses of the county in a manner prescribed by ordinance; C) preserve the peace and order and secure freedom from dangerous or noxious activities; provided, however, that no act may be declared a felony; D) for any public purpose, contract, or join with another county, or with any political subdivision or with the United States; E) create, consolidate, separate, revise, or abandon any elected office or offices except during the term thereof; provided, however, that a majority of those voting on the question at a general election have approved said action; F) fix the number and compensation of deputies and county employees; G) fix the compensation of each county officer with a minimum and maximum to be determined by law; H) fill vacancies in elected county offices; I) provide for any service or performance of any function relating to county affairs; J) to exercise other powers, not inconsistent with law, necessary for effective administration of authorized services and functions (ACA 14-14-801).

In the 2016 November General Election, Arkansans approved Issue 1 with 70.22% voting yes, resulting in the 95th amendment to the Arkansas Constitution. Amendment 95 extended the term limits of county offices from two to four years. Beginning in the 2018 General Election, persons elected to the following positions shall serve four (4) year terms: (1) County Judge; (2) Sheriff; (3) Circuit Clerk; (4) County Clerk; (5) Assessor; (6) Coroner; (7) Treasurer; (8) County Surveyor; and (9) Collector of taxes." Amendment 95 also amended Article 7 of the Arkansas Constitution to add § 53 precluding county officers from being appointed or elected to any civil office under the state during the term for which he or she had been elected.

Chapter 2 – GENERAL DUTIES OF THE OFFICE OF SHERIFF

Origin of the Office

The office of Sheriff is one of the oldest offices known to the common law system of jurisprudence. The office dates back to at least the reign of Alfred the Great in England and some scholars even argue that the office of Sheriff was first created during the Roman occupation of England.

The word "Sheriff" was evolved from the Saxon word "Sayre", signifying shire, meaning geographic units or county. The word "Reve" was used to describe a representative that acted on behalf of the King of England in each shire or county. The "shire-reve" or Kings' representative in each county, became the "sheriff" as the English language changed over the years. The shire-reve or sheriff was the chief law enforcement officer of each county in the year 1000 A.D.

Duties of the Office

The duties of the office of county sheriff in Arkansas are divided into 3 major areas.

The sheriff is the chief enforcement officer of the courts, conservator of the peace in the county, and has custody of the county jail. The Arkansas Constitution states (Ark. Const. Art. 7, Sec. 46) that each county shall elect one sheriff, who shall be the ex-officio collector of taxes, unless otherwise provided by law.

As chief enforcement officer of the circuit and chancery courts, the sheriff is charged by the constitution and by statute with the execution of summonses, enforcement of judgments, orders, injunctions, garnishments, attachments, and the making of arrest on warrants issued by the courts. The sheriff also opens and attends each term of circuit and chancery court and notifies residents selected to jury duty, assists in handling witnesses and prisoners during a given court term.

A second major area of duties surrounds the responsibility of the sheriff in law enforcement (ACA 14-15-501). The responsibility in this area is very broad and includes the preservation of the public peace; the protection of life and property; the prevention, detection, and investigation of criminal activity; the apprehension and confinement of offenders and the recovery of property; the control of crowds at public events; the control of vehicular traffic and the investigation of traffic accidents; and the rendering of services and the protection of property during civil emergencies or natural disasters.

The responsibility for the custody of the county jail in each county is given to the county sheriff (ACA 12-41-502). The sheriff has custody of accused felons and some misdemeanors apprehended in the county and is charged with feeding and keeping these accused persons. A log of all prisoners kept in the county jail and those transferred is maintained by the sheriff, as well as a bail bond book.

Qualifications and Term of Office

In Arkansas, a candidate for sheriff must be a qualified elector and resident of the county in which they seek office. The term of office for a sheriff is four years (Ark. Const. Art. 7, Sec. 46) and is elected by the voters of the county. There is no limit to the number of times a person may be elected sheriff.

A former county sheriff of a county who has served as county sheriff within that county for at least eight (8) years and who meets all minimum hiring standards prescribed by the Arkansas Commission on Law Enforcement Standards and Training is qualified to be employed as a law enforcement officer with a municipality, county, or state board. A.C.A. § 12-9-112.

Vacancy in the Office

The County Quorum Court has the authority to appoint a person to fill a vacancy in all elective county offices. However, the determination that a vacancy does exist shall be conducted through the process of resolution as prescribed by law; provided, however, that such a resolution shall have been published prior to the meeting date in which such resolution is to be considered by the court. Any person who is appointed must meet all the qualifications for election to that office. In addition, any member of the Quorum Court or relative within the fourth degree of consanguinity is ineligible to serve. This person appointed shall serve out the remainder of the term or until their successor is elected and qualified and shall not be eligible for appointment or election to succeed himself. (ACA 14-14-1310) Act 229 of 2009 requires the sheriff and quorum court to adopt a line of succession for an interim sheriff to act during an emergency.

Salary of the Office

Compensation of each county office shall be fixed by the Quorum Court within a minimum and maximum to be determined by law. Salary may not be decreased during the term of office and fees of the office shall not be the basis of compensation for officers or employees of county offices. (Ark. Const. Amend. 55, Sec. 5)

A classification of counties based on population, was devised to determine the salaries of the elected county officers. ACA 14-14-1204 established 7 classifications and salary ranges which are subject to change every two years when the legislature is in session.

During the 2009 General Assembly, Act 320, which amends ACA 14-14-1204, was passed. This Act raised the minimum and maximum salaries for elected county officials in the various classes of counties.

Act 320 also provides for a cost-of-living adjustment as follows:

14-14-1210. Cost-of-living adjustment. - (a) Beginning January 1, 2011, and on each January 1 thereafter, three percent (3%) per annum shall be added to the minimum and maximum salaries and per diems of elected county officers as a cost-of-living adjustment.

(c) Beginning September 1, 2010, and on each September 1 thereafter, the Association of Arkansas Counties shall provide each county and the Division of Legislative Audit with a schedule of the minimum and maximum salaries and per diems of elected county officers with the added cost-of-living adjustment for the following year. [Acts 2009, No. 320, § 3.]

Appointment of Deputies

Every deputy sheriff appointed as provided by law shall possess all of the powers of his principal and may perform any of the duties required by law to be performed by the sheriff. "The appointment of a deputy sheriff continues no longer than the term for which his principal was elected; and if the principal sheriff be reelected, it requires a new appointment, and approval under the statute, to continue in the office of his former deputy." (ACA 14-15-503 and Greenwood v. State, 17 Ark. 332 (1856))

Act 452 of 1975, as amended, established the Executive Commission on Law Enforcement Standards which has the power to establish reasonable minimum standards for the selection and training of law enforcement officers in Arkansas. This commission will also certify officers as being qualified by training and education; examine and evaluate instructors and courses of instruction and certify the extent of qualification respectively. (ACA 12-9-104)

Wage and Hour Policies

Since 1987 we have had several counties that experienced citations by the Department of Labor. Complaints alleging violations are always being investigated and employees also have the right to file private suits under the Fair Labor Standards Act (FLSA).

The following are things employers must do to avoid these type situations:

A. The question of overtime pay or overtime compensation - policy must be decided prior to the fact and should be part of a personnel policy.

B. Each constitutional official is responsible for documenting their personnel's overtime.

C. Elected officials and their political appointees (i.e. – administrative assistant or chief deputy) are not covered by these rules.

D. Non-commissioned personnel are on a straight 7-day, 40-hour workweek and may accumulate no more than 240 compensatory hours (160 overtime work hours x 1.5 = 240 comp. hours.)

E. Commissioned personnel are allowed to work either a 28 day, 171 hour schedule or a 7 day, 43 hour schedule. They may accumulate no more than 480 compensatory hours.

The above information was obtained from the Department of Labor Bulletin 29 CFR Part 553 Part II dated Friday, January 16, 1987. This bulletin is the latest published information from the Department of Labor. If you have any questions regarding this material you can contact:

Employment Standards Administration
Wage Hour Division
Suite 611, Savers Building
320 West Capitol
Little Rock, Arkansas 72201

Removal of Office

The Circuit Court shall have jurisdiction upon information, presentment or indictment to remove any county or township officer from office for incompetence, corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office. (ACA 14-14-1311)

Coroner Can Assume Custody of the County Jail

The sheriff may be imprisoned in the jail of his own county. For the time the sheriff shall be confined, the coroner shall have the custody, rule, keeping, and charge of the jail and shall, by himself and his securities, be answerable for the faithful discharge of his duties in that office. (ACA 12-41-511)

As the Sheriff has the responsibility for the county jail we at AAC consider it appropriate to add as an addendum to this chapter the following laws concerning the housing of state inmates in county jails.

12-27-114. Inmates in county jails-Reimbursement of county-medical care.

(a)(1)(A)(i) In the event the Department of Correction cannot accept inmates from county jails due to insufficient bed space, the Department of Correction shall reimburse the counties from the County Jail Reimbursement Fund at rates determined by the Chief Fiscal Officer of the State, after consultation with Arkansas Legislative Audit and the Department of Correction and upon approval by the Governor, until the appropriation and funding provided for that purpose are exhausted.

(ii) The reimbursement rate shall include the county's cost of transporting the inmates to the Department of Correction.

(B)(i) Reimbursement shall begin on the date of sentencing if the judgment and commitment order is received by the Department of Correction not later than twenty-one (21) days from the sentencing date.

(ii) If the judgment and commitment order is received by the Department of Correction twenty-two (22) or more days after the sentencing date, reimbursement shall begin on the date the Department of Correction receives the judgment and commitment order.

(2)(A) In the event the Department of Community Correction cannot accept inmates from county jails due to insufficient bed space or shall have an inmate confined in a county jail under any prerelease program or sanction imposed in response to a violation of supervision conditions, the Department of Community Correction shall reimburse the counties from the fund at rates determined by the Chief Fiscal Officer of the State, after consultation with Arkansas Legislative Audit and the Department of Correction, and upon approval by the Governor, until the appropriation and funding provided for that purpose are exhausted.

(B)(i) Reimbursement shall begin on either the date

of sentencing or the date of placement on probation accompanied with incarceration in the Department of Community Correction if the judgment and commitment order or the judgment and disposition order, whichever is applicable, is received by the Department of Community Correction not later than twenty-one (21) days from either the date of sentencing or the date of placement on probation accompanied with incarceration in the Department of Community Correction.

(ii) If the judgment and commitment order or the judgment and disposition order, whichever is applicable, is received by the Department of Community Correction twenty-two (22) or more days after the date of sentencing or the date of placement on probation accompanied with incarceration in the Department of Community Correction, reimbursement shall begin on the date the Department of Community Correction receives either the judgment and commitment order or the judgment and disposition order, whichever is applicable.

(b)(1)(A) The Department of Correction and the Department of Community Correction shall prepare an invoice during the first week of each month that lists each state inmate that is on the county jail backup list during the previous month.

(B) The invoice shall reflect the number of days a state inmate was in the county jail in an awaiting-bed-space status.

(2)(A) The Department of Correction and the Department of Community Correction shall verify and forward the invoices to the applicable county sheriff to certify the actual number of days the state inmates were physically housed in the county jail.

(B)(i) Upon written request of a county judge, county treasurer, or county sheriff, the Department of Correction and the Department of Community Correction shall provide to the county official making the request a written report summarizing the year-to-date county jail reimbursement invoices prepared and forwarded for verification by the Department of Correction and the Department of Community Correction and payment from the fund.

(ii) In addition, the written report shall include a summary of invoices returned by each county for payment for previous months within the fiscal year, the amounts paid, and any balances owed.

(3)(A) The certified invoices shall then be returned to the Department of Correction and the Department of Community Correction for payment from the fund.

(B) Payment from the fund shall be made within (5) business days of receipt of signed and certified invoices returned by each county, subject to funding made available for payment of the certified notices.

(4) The county sheriff shall maintain documentation for three (3) calendar years to confirm the number of days each state inmate was physically housed in the county jail.

(5) The documentation maintained by the county sheriff is subject to review by Arkansas Legislative Audit.

(6) Invoices under this subsection may be mailed or sent electronically.

(c)(1) The Board of Corrections shall adopt rules by which the Department of Correction or the Department of Community Correction may reimburse any county, which is required to retain an inmate awaiting delivery to the custody of either the Department of Correction or the Department of Community Correction upon receipt of a correct sentencing order, for the actual costs paid for any emergency medical care for physical injury or illness of the inmate retained under this section if the injury or illness is directly related to the incarceration and the county is required by law to provide the care for inmates in the jail.

(2) The Director of the Department of Correction or his or her designee or the Director of the Department of Community Correction or his or her designee may accept custody of any inmate as soon as possible upon request of the county upon determining that the inmate is required to have extended medical care.

(3)(A) Reimbursements for medical expenses shall require prior approval of the Department of Correction or the Department of Community Correction before the rendering of health care.

(B)(i) In a true emergency situation, health care may be rendered without prior approval.

(ii) The Department of Correction or the Department of Community Correction shall be notified of a true emergency situation immediately after the true emergency situation.

12-29-205. Good times earned pending transfer to Department of Correction.

((a)(1) Any person who is sentenced by a circuit court to the Division of Correction or the Division of Community Correction and is awaiting transfer to the Division of Correction or Division of Community Correction may earn meritorious good time in accordance with law and rules as adopted by the Board of Corrections.

(2) Meritorious good time will only be given for being housed in a jail or similar secure facility while awaiting transfer on the conviction resulting in a sentence from that county.

(3) Meritorious good time will be calculated upon reception within the respective division.

(b) Meritorious good time will be awarded unless the county sheriff of record submits written objections to such award based on the prisoner's behavior, discipline, and the conduct or performance of such duties and responsibilities as assigned by such county sheriff or his or her designated representatives.

(c) This meritorious good time award is subject to all rules regarding meritorious good time including, but not limited to, those rules for forfeiture of meritorious good time as adopted by the board.

12-30-407. Housing of participants.

(a)(1)(A) The Board of Corrections may promulgate rules to allow the proper classification of inmates to be released to the county sheriffs of approved jail facilities or chiefs of police or other authorized law enforcement officers of city-operated approved jail facilities or community correction centers outside the Division of Correction.

(B)(i) Inmates shall be interviewed to develop a classification of each inmate's skills, work experiences, job background, and education.

(ii) Inmates shall work at jobs under this section that directly benefit approved jail facilities or a political

subdivision, or may assist a political subdivision in supporting or working with a nonprofit organization with a chapter, committee, or other governing body that is based in the county, that are related to a particular inmate's background classification, and in which the inmates are under supervision at all times.

(2)(A)(i) County sheriffs, chiefs of police, or other authorized law enforcement officers of approved jail facilities may request assignment of inmates to their approved jail facilities to perform particular jobs for the approved jail facilities or for a political subdivision, or to assist a political subdivision in supporting or working with a nonprofit organization with a chapter, committee, or other governing body that is based in the county, when the jobs or assistance are in a particular area of need of the approved jail facilities, political subdivision, or nonprofit organization with a chapter, committee, or other governing body that is based in the county.

(ii) The division shall review the requests and shall submit a list of inmates with appropriate skills or backgrounds for the particular job needs of the approved jail facility, political subdivision, or nonprofit organization with a chapter, committee, or other governing body that is based in the county that is being provided assistance by a political subdivision, in accordance with the division's classification of inmates' skills and backgrounds.

(iii) County sheriffs, chiefs of police, or other authorized law enforcement officers shall choose inmates from the submitted list who are appropriate for the needs of the approved jail facilities, political subdivision, or nonprofit organization with a chapter, committee, or other governing body that is based in the county that is being provided assistance by a political subdivision.

(B) County sheriffs, chiefs of police, or other authorized law enforcement officers of approved jail facilities shall not request the assignment of a particular inmate to an approved jail facility, political subdivision, or nonprofit organization with a chapter, committee, or other governing body that is based in the county, and may refuse the assignment of a particular inmate.

(3)(A) An inmate shall not be released to a county sheriff, chief of police, or other authorized law enforcement officer of an approved jail facility under this section until notification of the release is first sent to the county sheriff of the county from which the inmate was tried and convicted, the prosecuting attorney's office that prosecuted the inmate, and, upon a written request, to the victim or victim's family.

(B) Notification of the victim or victim's family shall be done by mail to the last known address supplied to the division in accordance with division policies.

(4)(A) Inmates released under this section shall be entitled to credit on their sentences under the meritorious classification system of the division.

(B) However, no inmate shall be eligible to be released to the county sheriff, chief of police, or other authorized law enforcement officer of an approved jail facility unless the inmate is within forty-five (45) months of his or her first parole eligibility date or his or her first post prison transfer eligibility date, unless:

(i) The inmate is returning to the county from which he or she was tried and convicted and the victim or victim's immediate family, if residing in the county from which the inmate was tried and convicted, has been notified of the inmate's return; or

(ii)(a) If the inmate is released to a county other than a county from which he or she was tried and convicted, the county sheriff of the county from which he or she was tried and convicted shall be notified as provided in subdivision (a)(3)(A) of this section.

(b)(1) Unless the county sheriff responds within fifteen (15) days of notification that he or she disapproves of the transfer, the inmate may be transferred as provided in this section.

(2) If the county sheriff disapproves of the transfer and an inmate becomes eligible to be released again, the notifications required by subdivision (a)(3) of this section shall be made again.

(b)(1) The number of persons on prerelease, work-release, and other rehabilitative programs that may be housed at the Arkansas Health Center shall not exceed a number appropriate to maintain the security and good order of the center.

(2) However, with the approval of the Department of Human Services State Institutional System Board and the Administrator of the Arkansas Health Center, a maximum number of persons on prerelease, work-release, and other rehabilitative programs to be housed at the center may be established by the Board of Corrections.

Record Retention A.C.A. § 13-4-401- A.C.A. § 13-4-411

13-4-401. Retention required – Destruction – Electronic reproduction.

(a)(1) A county sheriff's office shall maintain the records named in this subchapter for the period of time provided in this subchapter, after which time the records may be destroyed.

(2)(A) Administrative records shall not be destroyed until at least one (1) year after an audit by Arkansas Legislative Audit or a private auditor is completed and approved.

(B) A record over fifty (50) years old shall not be destroyed before written notice by the custodian of the records in question has been furnished to the Arkansas History Commission, describing the scope and nature of the records, at least sixty (60) days before the destruction of the records.

(b)(1) If a record is photographically or electronically transferred to other media of a permanent nature, the original document may be destroyed, except that a handwritten record over fifty (50) years old shall not be destroyed.

(2) A county record that is photographically transferred to other media of a permanent nature shall be transferred by a process that accurately reproduces or forms a durable medium for reproducing the original.

(c) When county records are transferred to other media of a permanent nature, the resulting transfer shall meet the following requirements:

(1) The information in the county record retained shall be transferred into a usable and accessible format capable of accurately reproducing the original over the time periods specified in § 13-4-301 et seq.;

(2) Operational procedures shall ensure that the

authenticity, confidentiality, accuracy, reliability, and appropriate level of security are provided to safeguard the integrity of the information in the county record;

(3) Procedures shall be available for the backup, recovery, and storage of records to protect the records against media destruction or deterioration and information loss; and

(4) A retention conversion-and-review schedule shall be established to ensure that electronically or optically stored information is reviewed for data conversion at least one (1) time every four (4) years or more frequently when necessary to prevent the physical loss of data or loss due to technological obsolescence of the medium.

(d) Before any record is destroyed, the custodian of the record shall document the date and type of document.

(e) Records explicitly not addressed in this subchapter may be destroyed no sooner than three (3) years after an audit by Arkansas legislative Audit or a private auditor is completed and approved.

13-4-402. Retention of records otherwise provided.

A record retained by a county sheriff's office for which a retention period is otherwise provided in the Arkansas Code of 1987 Annotated is not subject to this subchapter, including without limitation records described in:

(1) Section 12-12-104; and

(2) Section 16-10-211.

13-4-403. Criminal investigation documentation.

(a) As used in this section, "criminal investigation documentation" includes without limitation:

(1) Incident or offense reports;

(2) Arrest warrant records;

(3) Search warrant records; and

(4) Investigative case files, including:

(A) Photographs;

(B) Lab reports; and

(C) Audio media, visual media, and audiovisual media.

(b) Criminal investigation documentation shall be retained for the following periods of time:

(1) If the criminal investigation documentation is associated with a Class Y or Class A felony, it shall be retained for at least thirty (30) years;

(2) If the criminal investigation documentation is associated with a non-Class Y felony, it shall be retained for at least ten (10) years;

(3) If the criminal investigation documentation is associated with a misdemeanor or violation, it shall be retained for at least three (3) years;

(4) If the criminal investigation documentation relates to a civil matter or other noncriminal matter, it shall be retained for at least three (3) years; and

(5) If the criminal investigation documentation is associated with a use of force by law enforcement, law enforcement complaints, or administrative proceedings, it shall be retained for at least three (3) years.

(c) Except as otherwise provided under subsection (b) of this section, audio media, visual media, and audiovisual media shall be retained for at least thirty (30) days.

(d) Criminal investigation documentation may be disposed of by the order of the county judge upon recommendation of the county sheriff after the period of time dictated by subsection (b) of this section.

13-4-408. Items in the possession of a county sheriff's office pursuant to a criminal investigation or court case – Misdemeanors.

(a) If an item is in the possession of a county sheriff's office pursuant to a misdemeanor criminal investigation or court case, it shall be retained for a period of thirty (30) days after:

(1) The investigation for which it is being held has closed; or

(2) If the investigation results in a criminal prosecution, the date of the final judgment if there is no appeal of the conviction to circuit court.

(b) A noncontraband item shall be returned to its owner.

(c) The county sheriff shall petition the district court for the disposal or destruction of contraband or an item that an owner has not claimed.

13-4-409. Items in the possession of a county sheriff's office pursuant to a criminal investigation or court case – Felonies.

(a) If an item is in the possession of a county sheriff's office pursuant to a felony criminal investigation, it shall be retained until the applicable statute of limitation for the most serious possible crime to which it could be connected has lapsed.

(b)(1) If an item is in the possession of a county sheriff's office pursuant to a felony court case, it shall be retained for a period of two (2) years after the date of the final judgment if there is no appeal of the conviction.

(2)(A) If there is an appeal of the conviction to an appellate court, the item shall be retained for three (3) years after the final judgment is entered and after the conclusion of any post-conviction litigation.

(B) Post-conviction litigation includes without limitation:

(i) Proceedings under Rule 37 of the Arkansas Rules of Criminal Procedure;

(ii) State habeas corpus proceedings under § 16-112-101 et seq.; and

(iii) Federal habeas corpus proceedings under 28 U.S.C. § 2254.

(c) (1) An item relating to the investigation of any of the following crimes shall be retained for ninety-nine (99) years:

(A) Capital murder, § 5-10-101;

(B) Murder in the first degree, § 5-10-102;

(C) Murder in the second degree, § 5-10-103;

(D) Rape, § 5-14-103;

(E) Sexual assault in the first degree, § 5-14-124; and

(F) Arson, § 5-38-301.

(2) A deoxyribonucleic acid (DNA) sample or test result shall be retained for fifty (50) years.

(d) After the time periods prescribed in this section have lapsed and an item may be disposed of or destroyed, a noncontraband item shall be returned to its owner.

(e) The county sheriff shall petition the circuit court for the disposal or destruction of contraband or an item for which an owner has not asserted a claim.

13-4-410. Items in the possession of a county sheriff's office not pursuant to a criminal investigation or court case.

(a) Any item in the possession of a county sheriff's office that is not associated with a criminal investigation or court case, such as a misplaced or lost-and-found item, shall be retained for one (1) year or until the rightful owner reclaims the item.

(b) At the end of the period of time prescribed by

this section, the county sheriff may request that the county judge authorize the disposal of any such item through destruction, public sale, or transfer of ownership to the county sheriff's office if the item would serve a needed public benefit.

13-4-411. Applicability – Constables.

This subchapter also applies to constables.

14-14-111. Electronic Records

(a)(1) County governments in Arkansas are the repository for vast numbers of public records necessary for the regulation of commerce and vital to the health, safety, and welfare of the citizens of the state.

(2) These records are routinely kept in electronic format by the county officials who are the custodians of the records.

(3) It is the intent of this section to:

(A) Ensure that all public records kept by county officials are under the complete care, custody, and control of the county officials responsible for the records; and

(B) Prevent a computer or software provider doing business with a county from obtaining complete care and control of county records and from becoming the de facto custodian of the records.

(b) As used in this section:

(1) "Administrative rights" means permissions and powers, including without limitation the permissions and powers to access, alter, copy, download, extract, read, record, upload, write, or otherwise manipulate and maintain records kept by a county official;

(2) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means; and

(3)(A)(i) "Public records" means writings, recorded sounds, films, tapes, electronic or computer-based information, or data compilations in any medium required by law to be kept or otherwise kept and that constitute a record of the performance or lack of performance of official functions that are or should be carried out by a public official or employee, a governmental agency, or other agency wholly or partially supported by public funds or expending public funds.

(ii) All records maintained in county offices or by county employees within the scope of employment are public records.

(B) "Public records" does not mean software acquired by purchase, lease, or license.

(c)(1) A county official required by law to maintain public records and who in the normal performance of official duties chooses to keep and maintain the records in an electronic record shall retain complete administrative rights and complete access to all the records.

(2) A contract between a county and an electronic record provider shall:

(A) Include the information under subdivision (c)(1) of this section; and

(B) Require the contractor to provide the county official, at his or her request, with a written list of all file formats in which electronic records are stored.

(d)(1) It is the intent of the General Assembly to encourage the use of audio media, visual media, and audiovisual media by local law enforcement agencies and detention centers.

(2) A contract between an electronic record provider and a county concerning audio media, visual media, or audiovisual media for the county law enforcement agencies shall provide that audio media, visual media, or audiovisual media be maintained as provided under § 13-4-403.

(3)(A) Pursuant to § 25-19-112, the county or electronic record provider may charge the requestor for the costs associated with retrieving, reviewing, redacting, and copying audio media, visual media, or audiovisual media.

(B) An electronic record provider that charges for costs under subdivision (d)(3)(A) of this section shall provide a copy of the invoice to the county.

25-19-112. Audio media, visual media, and audiovisual media

(a) The General Assembly finds that:

(1) The allocation of time of trained law enforcement personnel, dispatchers, and detention personnel toward fulfilling requests for copies of audio media, visual media, and audiovisual media is substantial; and

(2) The uniform assessment of costs to defray and recover the allocation of time of trained law enforcement personnel, dispatchers, and detention personnel toward fulfilling requests for copies of audio media, visual media, and audiovisual media is necessary.

(b) It is the intent of the General Assembly to encourage the use of audio media, visual media, and audiovisual media by state and local law enforcement agencies and detention centers.

(c)(1) A state, county, municipal, school, college, or university law enforcement agency, dispatch center, public safety answering point, jail, detention center, or electronic record provider may charge for the costs associated with retrieving, reviewing, redacting, and copying audio media, visual media, and audiovisual media as provided under this section.

(2) A request for audio media, visual media, and audiovisual media that:

(A) Requires three (3) hours or less of personnel and equipment time to fulfill the request shall be provided at no charge:

(i) Except for the cost of reproduction of the media; or

(ii) Unless the requestor or the requestor's entity has made a request under this section in the immediately preceding thirty-day period;

(B) Requires more than three (3) hours of personnel or equipment time to fulfill the request shall be charged at a rate that does not exceed twenty dollars ($20.00) per hour on a prorated basis for each hour of running time of audio media, visual media, or audiovisual media provided to the requestor; and

(C) Is estimated to require more than three (3) hours of personnel or equipment time to fulfill the request may be required to be prepaid.

(3) A request for audio media, visual media, and audiovisual media shall be sufficiently specific to enable the custodian to locate the requested audio media, visual media, and audiovisual media with reasonable effort.

(4) An electronic record provider that charges for costs under this section shall provide a copy of the invoice to the entity required to maintain the audio media, visual media, or audiovisual media.

Chapter 3 - DUTIES OF A SHERIFF AS LAW ENFORCEMENT OFFICER

This chapter was included to assist County Sheriffs by describing the basic duties of a Sheriff as a Law Enforcement Officer. The information presented in this chapter is divided into six (6) areas for purposes of understanding and discussion.
They are:
A. Law Enforcement Personnel Training Standards Summary
B. Law Enforcement Budgeting
C. Domestic Abuse
D. Index of Criminal & Civil Offenses
E. Law Enforcement Records
F. Preparation of Search Warrant

INTRODUCTION

The information compiled in this section of the manual is a summary gathered from State of Arkansas, Commission on Law Enforcement Standards & Training, Manual of Regulations, Revised 1990. This information has been developed to provide the sheriff with a concise summary of the minimum standards and does not attempt to replace them, but only present them.

If you need specific or detailed information regarding these regulations, please refer to the regulations or call or contact:

The CLEST standards office in Little Rock at 501-682-2260 or the website at CLEST.org. The website has the Commission regulations, forms and upcoming training listed as well as other useful information for law enforcement.

THE COMMISSION ON LAW ENFORCEMENT STANDARDS AND TRAINING

Guidelines

The Commission on Law Enforcement Standards and Training was created under the authority of Act 45, passed by the General Assembly in 1981, hereafter referred to as the Commission.

Director of the Commission

The Director of the Commission, hereafter referred to as the Director, is appointed by the Governor. The Director performs duties directed by the Commission.

Commission Membership

The Commission consists of eight (10) members who are appointed by the Governor and approved by the Senate. Each member serves a seven (7) year term. Representation on the Commission is as follows:

1) Two Chiefs of Police
2) Two Sheriffs
3) Two members of the general public
4) An educator in the field of criminal justice.
5) One member sixty (60) years of age to represent the elderly
6) An active member of the Arkansas State Police
7.) The president of the Arkansas Municipal Police Association

Each Congressional district is represented on the Commission

POWERS AND DUTIES OF THE COMMISSION

Guidelines

In addition to the powers conferred upon the Arkansas Commission on Law Enforcement Standards and Training in 12-9-104 - 12-9-107, the Commission shall have power to:

(1) Promulgate rules and regulations for the administration of this subchapter;

(2) Require the submission of reports and information by law enforcement agencies within this state;

(3) Establish minimum selection and training standards for admission to appointment as an auxiliary law enforcement officer. The standards may take into account different requirements for urban and rural areas. However, the minimum selection and training standards for admission to appointment may not exceed those required for part-time officers;

(4) Establish minimum curriculum requirements for preparatory, in-service, and advanced courses and programs of schools operated by and for the training of auxiliary law enforcement officers.

(5) Consult and cooperate with counties, municipalities, agencies of this state, other governmental agencies, and with universities, colleges, junior colleges, community colleges, and other institutions or organizations concerning the development of police training schools and programs or courses of instruction;

(6) Approve institutions and facilities to be used by or for the state or any political subdivision thereof for the specific purpose of training law enforcement officers and recruits;

(7) Exclude auxiliary law enforcement officers from training classes sponsored and supported by the Arkansas Law Enforcement Training Academy;

(8) Adopt rules and minimum standards for such schools which shall include, but not be limited to, establishing minimum;

(A) Basic training requirements which an auxiliary law enforcement officer must satisfactorily complete before being eligible for appointment;

(B) Course attendance and equipment requirements;

(C) Requirements for instructors.

(9) Conduct review of agency records to assist any department head in complying with the provisions of this subchapter;

(10) Adopt and amend bylaws, consistent with law, for its internal management and control;

(11) Enter into contracts or do such things as may be necessary and incidental to the administration of this

subchapter. (ACA 12-9-302, Acts 1983, No. 757, 2; ASA 1947, 42-1402)

MINIMUM STANDARDS FOR EMPLOYMENT OR APPOINTMENT

(1) Subject to the provisions of A.C.A. 12-9-106(e), no individual shall serve, be employed or otherwise function as a law enforcement officer in this State who is not certified by the Commission at the appropriate classification for the position held by the individual, except, an individual may serve, be employed or otherwise function as a law enforcement officer for a term of nine (9) months from his initial employment or appointment as a law enforcement officer. Upon the finding of extraordinary circumstances, the Commission, by majority vote, may extend this period by a maximum of three (3) months, for an absolute maximum period of twelve (12) months. (See Regulation 1008 for exceptions.) All requests for extensions must be submitted and received by the Commission prior to the end of the nine (9) month period, or any extension thereof. No individual who has been decertified by the Commission shall be eligible to serve, be employed or otherwise function as a law enforcement officer in this State unless the Commission shall have by majority vote agreed that the individual shall again be eligible to so serve.

(2) Verification of minimum employment standards must be maintained by the employing department.

(3) Every officer employed by a law enforcement unit shall:

(a) Be a citizen of the United States.

(b) Be at least 21 years of age.

(c) Be fingerprinted and a search initiated of state and national fingerprint files to disclose any criminal record.

(d) Be free of felony record and this will be evidenced by not having entered a plea of guilty or having been convicted, pardoned or otherwise relieved by a state or federal government of a crime, the punishment for which could have been imprisonment in a federal penitentiary or a state prison.

(e) Be of good character as determined by a thorough background investigation.

(f) Be a high school graduate or have passed the General Education Development (GED) Test indicating high school graduation level.

(g) Be examined by a licensed physician and meet the physical requirements prescribed.

(h) Be interviewed personally prior to employment by the department head or his representative, or representatives, to determine such things as the applicant's motivation, appearance, demeanor, attitude and ability to communicate. Commission Form F-11, Qualifications Appraisal Guide, or other appropriate form may be used to record the interview.

(i) Be examined by an individual licensed to practice psychiatry or psychology and qualified to perform such evaluations in the State of Arkansas, who after the examination makes a recommendation to the employing agency.

(j) Possess a valid driver's license.

(4) It is emphasized that these are minimum standards for employment or appointment. The decision to employ an applicant should depend upon the results and recommendations received by the investigators and examiners, except, for items (3)(g) and (3)(i). In accordance with the Americans with Disabilities Act, a determination to hire or not hire individuals should be made prior to the examinations required by (3)(g) and (3)(i). An offer of employment, if any, is to then be made contingent upon the successful completion of (3)(g) and (3)(i). Higher standards are recommended whenever the availability of qualified applicants meets the demand.

(5) The minimum standards for employment or appointment must be compiled with as contained herein before employment. The decision to employ an applicant should depend upon the results and recommendations received by the investigator and examiners.

(6) Law enforcement officers who have complied with the minimum standards for employment or appointment, who terminate their employment and are reemployed by a law enforcement agency within six (6) months following their termination date, may transfer the required documentation evidencing compliance with the standards to the files of the new agency. The only pre-employment requirement that the new employer will be required to complete is a new background investigation and oral interview. The employing agency may require the officer to meet any and or all pre-employment requirements, again, if they so desire.

(7) If an officer is determined by the Commission to be in noncompliance, the Commission will notify the director of the employing agency by certified letter. The individual will not be eligible to function as a law enforcement office until proof of compliance is presented to the Commission by the agency director or his representative. If proof of compliance has not be received by the Commission within ten (10) working days of the formal notification of non- compliance, the officer will be removed from the agency payroll and will not be eligible to be employed in any capacity as a law enforcement officer until compliance is met and proof is furnished to the Commission by the agency director or his representative. In the event the agency refuses to remove the officer from the payroll and/or continues to allow the officer to serve as a law enforcement officer, the Commission shall seek an injunction prohibiting the agency from employing and/ or using the officer and prohibiting the officer from acting as a law enforcement officer.

(8) Any Individual who fails the required training course, as set out herein, or is expelled from the required training course, will not be eligible to serve as a law enforcement officer for twenty-four (24) months following the date of failure or expulsion from the training course.

(9) Any individual who fails to meet the physical or mental minimum standards of this Regulation shall be individually reviewed to determine if said person can perform the essential functions of the duties of a law enforcement officer, with or without reasonable accommodations, the employing or appointing agency shall request the Commission to determine if said person can perform the essential functions of the duties of a law enforcement officer. If the Commission determines, by a majority vote, that the

individual can perform the essential functions of a law enforcement officer, with or without reasonable accommodations, and the employing or appointing units and/or the individual agrees to the reasonable accommodations, then the Commission shall waive the minimum standard in question. (CLEST Reg. 1002)

MINIMUM STANDARDS FOR APPOINTMENT

Guidelines

Because auxiliary law enforcement officers have legal authority beyond that of a private citizen, auxiliary officers must meet the minimum standards established by the Commission. (ACA 12-9-301 et seq)

Minimum Standards For Appointment

All auxiliary law enforcement officers shall:

1) Be a United States citizen

2) Be at least twenty-one (21) years of age

3) Be free of any state or federal convictions for which punishment could have been imprisonment in a federal or state penitentiary.

4) Have completed one hundred and ten (110) hours of Commission approved law enforcement training, which includes a firearm qualification course equivalent to the firearm qualification requirements for a fulltime officer.

All persons who are serving as an auxiliary officer before 3-24-83 are exempt from the appointed requirements. These persons are not exempt from the minimum training requirements.

All persons who are serving as an auxiliary officer have one (1) year from 3-24-83 to complete the minimum training requirements. If the training requirements have not been completed, any action taken as a law enforcement officer shall be held invalid.

Persons appointed as auxiliary officers after March 24, 1983 must meet all appointment and training requirements. (ACA 12-9-304)

12-9-304. Appointment Standards

a)(1) A person shall not function as an auxiliary law enforcement officer until the minimum standards for appointment and training requirements have been completed.

(2) An auxiliary law enforcement officer who has not met the minimum standards for appointment and training requirements shall have no law enforcement authority except that which is authorized for a private citizen.

(b) All persons who are serving as auxiliary law enforcement officers prior to March 24, 1983, are exempt from meeting the appointment requirements.

(c) The training requirements for auxiliary law enforcement officers shall be established by the Arkansas Commission on Law Enforcement Standards and Training, and the basic training course shall not exceed the part-time law enforcement officers' training requirements.

(d) Honorary police officers are exempt from the provisions of this subchapter.

(e) The commission may issue a certificate evidencing satisfactory completion of the requirements of this subchapter when evidence is submitted by the law enforcement agency director, chief, or county sheriff that the auxiliary law enforcement officer has met the training and selection requirements.

(f)(1) The appointing law enforcement agency shall provide not less than one hundred ten (110) hours of commission-approved law enforcement training, which shall include a firearms qualification course equivalent to the firearms qualification requirements for a full-time law enforcement officer, and an auxiliary law enforcement officer shall not bear a firearm until having successfully completed the commission-approved law enforcement training.

(2) An auxiliary law enforcement officer is not required to requalify for firearms qualification beyond what a full-time law enforcement officer is required to complete for requalification for the purposes of carrying a concealed handgun while the auxiliary law enforcement officer remains appointed as an auxiliary law enforcement officer.

(g) Nothing in this section shall be construed to preclude any law enforcement agency from establishing qualifications and standards for appointing and training of auxiliary law enforcement officers that exceed those set by this subchapter or by the commission.

(h) Any auxiliary law enforcement officer failing to meet the training requirements as set forth in this subchapter shall lose his or her appointment as auxiliary law enforcement officer and shall not be reappointed until training requirements have been met.

(i) No person may be appointed or serve as an auxiliary law enforcement officer if the person has been convicted by a state or by the federal government of a crime, the punishment for which could have been imprisonment in a federal penitentiary or a state prison.

(j) Every person appointed or serving as an auxiliary law enforcement officer shall be a citizen of the United States and shall be at least twenty-one (21) years of age.

12-9-307. Benefits of Auxiliary Law Enforcement Officers

a) The auxiliary law enforcement officer or the governing political subdivision may elect to join the workers' compensation system for the benefit of the auxiliary law enforcement officer, and the auxiliary law enforcement officer may receive benefits therefrom as provided by statutes.

(b) The political subdivision may elect to provide liability insurance, uniforms, and such other equipment as may be necessary to perform the assigned tasks, and these provisions shall not be considered as salary or wages.

(c) An auxiliary law enforcement officer may receive such compensation, per diem, expenses, or other allowances for his or her services, for such purposes as transporting juveniles, as may be agreed to by the appointing authority.

12-9-403. Appointment and Training of radar instructors and operators

(a) A person shall not be appointed as a police traffic radar operator or police traffic radar instructor until the minimum standards for training requirements have been completed.

(b) The training requirements for police traffic radar operators or police traffic radar instructors shall be established by the Arkansas Commission on Law

Enforcement Standards and Training.
(c) The commission shall issue a certificate evidencing a law enforcement officer's certification to operate a police traffic radar after evidence is submitted by the law enforcement agency director, chief, or county sheriff that the police traffic radar operator has met the training requirements.
(d) This section does not preclude any law enforcement agency from establishing qualifications and standards for appointing and training of police traffic radar operators and police traffic radar instructors that exceed those set by this subchapter or by the commission.
(e) A police traffic radar operator or police traffic radar instructor failing to meet the training requirements as set forth in this subchapter shall lose his or her authority to operate a police traffic radar for enforcement purposes.
(f) A law enforcement officer shall complete the commission-required training for law enforcement officer certification before being eligible for certification as a police traffic radar operator.
(g) Only a full-time law enforcement officer, part-time law enforcement officer, or an auxiliary law enforcement officer appointed as a reserve law enforcement officer as defined by commission rule is eligible for certification as a police traffic radar operator.

DEFINITIONS

A Full-Time Law Enforcement Officer is one who is employed by and receives a salary authorized by a law enforcement unit; has the statutory authority to enforce the criminal, traffic or highway laws of the State; works 40 or more hours per week.

A Part-Time Law Enforcement Officer I is one who is employed by and receives a salary authorized by a law enforcement unit; has the statutory authority to enforce the criminal, traffic or highway laws of this State; works 24 or hours per week or less.

A Part-Time Law Enforcement Officer II is one who is employed by and receives a salary authorized by a law enforcement unit; has the statutory authority to enforce the criminal, traffic or highway laws of this State; works 24 hours per week or less.

An Auxiliary Law Enforcement Officer is any reserve, volunteer, posse, mounted patrol member or other groups or terms in common usage and refers to persons appointed and who receive no salary or wages for the performance of any assigned duty.

A Police Traffic Radar Operator is any Full-Time, Part-Time I, Part-Time II. Or Auxiliary law enforcement officer who has satisfactorily completed both a Commission approved Basic Police Training Course for their level of appointment and the Police Traffic Radar Operations Course.

Specialized Police Personnel are those Full-Time or Part-Time officers authorized by statute or employed by a law enforcement unit whose duty as prescribed by law or ordinance is enforcing some part of the criminal, traffic, or highway laws of this State and their authority is limited to the facility or area in which they work.

It is emphasized that these are minimum standards for employment or appointment. Higher standards are recommended whenever the availability of qualified applicants meets the demand. The minimum standards for employment or appointment must be completed before employment eligibility is established. Employment eligibility should depend upon the results and recommendations received by the investigator and examiners.

Probation Period

Every officer employed or appointed below the level of department head shall satisfactorily complete a probationary period of not less than twelve (12) months with the employing department.

A department head is not required to serve a probationary period. Every officer who is promoted or appointed as an assistant department head, middle management or supervisory position shall satisfactorily complete a probationary period of not less than six (6) months.

No law enforcement officer who lacks the training qualifications required by the Commission may have his temporary or probationary period extended beyond one year by renewal of appointment or otherwise, unless extraordinary circumstances exist in the majority opinion of the Commission whereupon the Commission may approve an extension of probation for no more than an eight (8) month period of time.

12-9-602. Notice of employment, appointment, or separation—response by the law enforcement officer—duty of division.
(a)(1) An employing agency shall immediately notify the Division of Law Enforcement Standards and Training, in a manner adopted by the division, of the employment or appointment, or separation from employment or appointment, of any law enforcement officer.
(2) Separation from employment or appointment includes any firing, termination, resignation, retirement, or voluntary or involuntary extended leave of absence of any law enforcement officer.
(3) A submission to the division related to the employment or appointment, or separation from employment or appointment, of a law enforcement officer is subject to the provisions of § 5-53-103 concerning false swearing.
(b)(1) In a case of separation from employment or appointment, the employing agency shall notify the division in a manner adopted by the division, setting forth in detail the facts and reasons for the separation.
(2) In a case of a separation from employment or appointment for one (1) of the following reasons, the notice shall state that:
(A) The law enforcement officer was separated for his or her failure to meet the minimum qualifications for employment or appointment as a law enforcement officer;
(B) The law enforcement officer was dismissed for a violation of state or federal law;
(C) The law enforcement officer was dismissed for a violation of the regulations of the law enforcement agency;
(D) The law enforcement officer resigned or retired while he or she was the subject of a pending internal investigation;
(E) The law enforcement officer was separated for excessive use of force; or
(F) The law enforcement officer was separated for dishonesty

or untruthfulness.
(3) Any law enforcement officer who has separated from employment or appointment shall be permitted to respond to the separation, in writing, to the division, setting forth the facts and reasons for the separation as he or she understands them.
(c)(1) Before employing or appointing a law enforcement officer, a subsequent employing agency shall contact the division to inquire as to the facts and reasons a law enforcement officer became separated from any previous employing agency.
(2) The division shall provide subsequent employing agencies with all information in the division's possession resulting from the requirements of subsection (b) of this section.
(d)(1) An administrator of an employing agency who discloses information under this section is immune from civil liability for such disclosure or its consequences.
(2) An employing agency is not civilly liable for disclosure of information under this subchapter or performing any other duties under this subchapter.
(e)(1) The division and its employees who disclose information under this section are immune from civil liability for such disclosure or its consequences.
(2) The division and its employees are not civilly liable for:
(A) Disclosure of information under this subchapter; or
(B) Performing any other duties under this subchapter.

12-9-603. Certification Review
When an employing agency reports that a law enforcement officer was separated from employment or appointment for one (1) or more of the reasons specified in § 12-9-602(b)(2), the Arkansas Commission on Law Enforcement Standards and Training shall review the certification of the law enforcement officer, the law enforcement officer's eligibility for certification, and the law enforcement officer's ability to act as a law enforcement officer, to determine whether to suspend or revoke the law enforcement officer's:
(1) Certification;
(2) Eligibility for certification; or
(3) Ability to act as a law enforcement officer.

MINIMUM STANDARDS FOR TRAINING

Basic Police Training Course

Each Full-Time law enforcement officer must satisfactorily complete the Basic Police Training Course within Nine (9) months from the date of his appointment.

The Commission may, where extraordinary circumstances exist in the majority opinion of the Executive Body, extend the nine (9) month requirement for any period of time up to, but not exceeding three (3) months for an absolute maximum period of twelve (12) months. All requests for extensions must be submitted to and received by the Commission prior to the end of the nine (9) month period or any extension thereof.

Part-Time I law enforcement officers who are employed and working 20 or more hours per week, but less than 40 hours per week, must meet the minimum training requirements for Full-Time law enforcement officers.

A Full-time or Part-time I Officer who is separated from full-time or part-time I law enforcement for more than three (3) years but less than seven (7) years must complete a forty hour refresher course within nine (9) months of appointment as full-time or part-time I law enforcement officer. A Full-Time or Part-Time I law enforcement officer who has previously met the minimum training requirements, and has been separated from law enforcement for more than seven (7) years but less than ten (10) years may, at the request of a sponsoring agency, prior to employment by the sponsoring agency, be allowed to take a comprehensive examination prepared, administered, scheduled and graded by CLEST. If the law enforcement applicant successfully passes the written exam, he or she may forego attending the full Basic Police Training Course provided he or she attends the 40-hour Refresher Course currently offered, as well as meets the selection requirements, prior to being eligible for certification. Separation for more than 10 years from full-time or part-time I law enforcement will require the mandatory attendance of a new Basic Training Course.

Appointment or employment as an Auxiliary, Part-Time II, or Specialized Police Person during the seven (7) year period of separation will not exclude the Full-Time or Part-Time I law enforcement officer from mandatory attendance of a new Basic Training Course.

Part-Time II law enforcement officers who are employed and working less than 20 hours per week and Auxiliary law enforcement officers will be required to satisfactorily complete not less than 110 hours of Commission approved law enforcement training including a firearms qualification course equivalent to the firearms qualification requirements for a Full-Time law enforcement officer. Separation from law enforcement for three (3) years will result in the Auxiliary and the Part-Time II law enforcement officer being required to attend a new 110-hour training course.

Any Full-Time or Part-Time I law enforcement officer who fails to satisfactorily complete the training requirements within nine (9) months or with a Commission approved extension of three (3) months will not be eligible for training nor certification for twenty-four (24) months following the date of failure of the training course or the date of expiration of the probationary period.

If an officer fails to satisfactorily complete the required training in a total of twelve (12) months from the original date of employment or appointment, he shall not be eligible to be retained as a law enforcement officer in this State. Reappointment or re-employment as a law enforcement officer will be considered only after the person has been separated from law enforcement for at least twenty-four (24) months. Should the officer fail to meet the minimum training requirement for a second time, he or she will not be eligible for certification as a full-time, part-time, auxiliary or in any other law enforcement officer position.

Supervisory Course

It is recommended, but not required, that all officers promoted, appointed or transferred to a first level supervisory position should satisfactorily complete the Supervisory Course as prescribed the Commission.

Officers must have satisfactorily completed the Basic Police Training Course prior to enrollment in the Supervisory Course.

Middle Management Course

The Middle Management Course shall be optional and voluntary. The Commission recommends, but does not require, that each officer promoted, appointed or transferred to a middle management position should satisfactorily complete the prescribed Middle Management Course.

Officers must have satisfactorily completed a Police Supervision Course before enrollment in the Middle Management Course.

Executive Course

Executive Courses shall be optional and voluntary for Department Heads. As a condition of course certification by the Commission, enrollment and attendance shall be restricted to Department Heads, Assistant Department Heads and Division Heads unless special approval to attend is granted by the Commission.

Officers who are not Department Heads should have successfully completed the recommended Middle Management Course prior to enrollment in an Executive Course.

Law Enforcement Officer Refresher Course

The Refresher Course will be required for all Full-Time law enforcement officers who are new employees and completed their training in another state.

The Refresher Course will be required for all Full-Time and Part-Time I law enforcement officers who have previously met the training requirements, but have been separated from law enforcement for a period of three (3) to seven (7) years. Appointment or employment as an Auxiliary, Part-Time II, and Specialized Police Person during a three (3) to seven (7) year period of separation will not exclude the Full-Time or Part-Time I law enforcement officer from mandatory attendance of the Refresher Course.

Any Full-Time officer not required to attend the Refresher Course may voluntary apply and if accepted, receive the training.

Behavior Health Crisis Training

§ 12-9-119. Behavior health crisis training.

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

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

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

(1) The dynamics of relating to an individual:

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

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

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

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

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

(3) The voluntary and involuntary commitment process;

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

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

(c) The commission shall certify:

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

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

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

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

(d)(1) A local law enforcement agency, including a county sheriff's office, but not a municipal law enforcement agency that employs less than ten (10) full-time law enforcement officers, shall employ at least one (1) law enforcement officer who has completed within eighteen (18) months of August 1, 2017, the crisis intervention team training as described under subdivision (c)(2) of this section.

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

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

(B) Develop and implement a model policy addressing law enforcement response to persons affected by a behavioral impairment; and

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

(e) All training required under this section and the curriculum for the training shall be developed by the commission in collaboration with the Criminal Justice Institute.

Training regarding use of excessive force

§ 12-9-125 Duty-to-intervene training

In accordance with the certification requirements of the Arkansas Commission on Law Enforcement Standards and

Training, all law enforcement officers in the state shall complete annual training related to a law enforcement officer's duty to intervene if the law enforcement officer observes the use of excessive force by another law enforcement officer.

Specialized Courses

Specialized Courses shall be optional and voluntary courses.

12-9-118. New or inactive law enforcement agency—approval buy commission required—definition.

(a) As used in this section, "inactive law enforcement agency" means a law enforcement agency that existed and operated under a state law or local ordinance in the past but that currently does not exist or has not operated for at least six (6) months.

(b) The chief executive officer or administrative head of an entity authorized by law to create a new law enforcement agency or reactivate an inactive law enforcement agency shall appear before the Arkansas Commission on Law Enforcement Standards and Training to request the creation of the new law enforcement agency or reactivation of the inactive law enforcement agency and present the law and documentation regarding:

(1) The funding mechanism, funding source or sources, and current budget proposal for the law enforcement agency;

(2) The proposed or enacted law enforcement agency policies, including without limitation policies regarding:

(A) Use of force;

(B) Vehicle pursuit;

(C) Professional conduct of law enforcement officers to be employed by the law enforcement agency;

(D) Racial profiling; and

(E) Critical incident debriefing;

(3) The administrative structure and organizational chart of the law enforcement agency, consisting of, at a minimum, a full-time chief of police that reports to the chief executive officer or administrative head of the entity; and

(4) Any other information or documentation required by the commission.

(c) After the appearance and presentation under subsection (b) of this section, the commission shall approve or disapprove the request to create the new law enforcement agency or reactivate the inactive law enforcement agency.

LAW ENFORCEMENT BUDGETING

Background

Why budget? Why breathe? Having a good law enforcement budgeting and accounting system will usually result in a long a successful tenure as sheriff. The day is gone when records could be kept on a "blue horse tablet" and memories had to be juggled to justify requesting more dollars to run your office. Good records will provide more and better information to the county constituents and at the same time pave the way for additional appropriations for the office or sheriff.

ACA 14-21-101 authorized the Division of Legislative Audit to develop a comprehensive financial management system for all revenue and expenditure functions in county government. The system developed assigns a county office code to each office and a separate one for the sheriff and county jail. Expenditures are divided into 4 major categories: 1) Personal Services, 2) Supplies, 3) Other Services and Charges and 4) Capital Outlay.

Since the Arkansas Supreme Court ruled in 1982 in Special School District of Fort Smith v Sebastian C n No. 82-188, it has become necessary for those counties that have a combined office of Sheriff/ Collector to account for the collector's office expense separately. The Arkansas Supreme Court ruled that combined offices of sheriff and collector could no longer use the collector's fees to help underwrite the expenses of the sheriff's office. As a result of this decision, all excess fees, other than that necessary to operate the collector's office, must be redistributed to all of the taxing units.

Timeframe

The fiscal year in county government coincides with the calendar year, January 1 December 31. The process of putting a budget together for the next year usually begins in September of each year. The first steps involve reviewing the current budget and knowing how much of it has been spent to date and how much is remaining in each category. As you know, it is always very important to know what your expenditures have been over the past few years. Knowing the amount of money your office has spent and where it was spent over the last several years is necessary to planning expenditures for the future. A good system of financial record keeping is essential to planning future budgets. Also, this type of information is usually necessary to present to the quorum court to get additional funding for your office.

In many counties, the quorum court has a budget committee which reviews the requests from each county office. These meetings usually take place in October of each year and sometimes involve the entire quorum court meeting as a committee of the whole. The county judge in other counties reviews all the budgets before they are submitted to the quorum court or budget committee.

The quorum court meets at its regularly scheduled meeting in November and levies the county, municipal, and school taxes for the current year (ACA 14-14-904). Also, before the end of each fiscal year, the quorum court usually passes a budget for the next year. Sometimes agreement cannot be reached before the end of the year and thus the current budget is carried over into the next year. By declaration of emergency, or determination that an emergency exists and the safety of the general public is at risk, the county judge may change the date, place, or time of the regular meeting of the quorum court upon twenty-four (24) hour notice.

Reports to the Quorum Court

Some counties require a monthly or quarterly report from the sheriff to the members of the quorum court. If this is a mandate from your quorum court, do a good job and have the necessary information regarding the activities and finances of your office.

The Association of Arkansas Counties views this report not only as a necessary chore of the office, but it also allows the sheriff the opportunity to improve his relationship with the quorum court. Also, this report allows the sheriff to build a justification for increased appropriations. A basic type of report should include the following:

Law Enforcement

1) Number of complaints filed
2) Number of burglaries filed
3) Number of burglaries cleared by arrest
4) Number of thefts reported
5) Number of thefts cleared by arrest
6) Number of other crimes reported
7) Number of other crimes cleared by arrest
8) Number of arrest reports filed
9) Number of miles patrolled

Jail

1) Number of prisoners jailed
   a) Time period jailed
   b) County prisoners
   c) City prisoners
2) Number of meals served
3) Cost of meals
   a) Per meal cost
   b) Total cost

Criminal and Civil Process

1) Criminal warrants served
2) Civil papers served
3) Attendance in court

Financial

1) Fees reported to Co. Treasurer
2) Fines reported to Co. Treasurer
3) Fines and court costs from Circuit Court
4) Fines and court costs from Municipal Court

12-9-209. Reimbursement for training costs or expenses

a)(1) If a county, city, town, or state agency pays the costs or expenses for training a law enforcement officer at a state-funded or municipally operated law enforcement training academy and another county, city, town, or state agency employs that law enforcement officer within eighteen (18) months after completion of the training in a position requiring a certificate of training from a state-funded or municipally operated law enforcement training academy, the county, city, town, or state agency that employs the law enforcement officer, at the time of employing the law enforcement officer, shall reimburse the county, city, town, or state agency for all or a portion of the costs or expenses incurred by the county, city, town, or state agency for the training of the law enforcement officer at the state-funded or municipally operated law enforcement training academy, unless the law enforcement officer has been terminated by the county, city, town, or state agency that paid the costs or expenses of training, in which case no reimbursement is required from the county, city, town, or state agency employing the law enforcement officer.

(2) Reimbursement may be sought only from the first county, city, town, or state agency that employed the law enforcement officer after the county, city, town, or state agency paid the costs or expenses of training.

(3) Reimbursement shall include any salary, travel expenses, food, lodging, or other costs required to be paid by the county, city, town, or state agency, as follows:

(A) If the law enforcement officer is employed within two (2) months after completion of the training, the employing agency shall reimburse the total of the costs or expenses of training;

(B) If the law enforcement officer is employed more than two (2) months but not more than six (6) months after completion of the training, the employing agency shall reimburse eighty percent (80%) of the costs or expenses of training;

(C) If the law enforcement officer is employed more than six (6) months but not more than ten (10) months after completion of the training, the employing agency shall reimburse sixty percent (60%) of the costs or expenses of training;

(D) If the law enforcement officer is employed more than ten (10) months but not more than fourteen (14) months after completion of the training, the employing agency shall reimburse forty percent (40%) of the costs or expenses of training; or

(E) If the law enforcement officer is employed more than fourteen (14) months but not more than eighteen (18) months after completion of the training, the employing agency shall reimburse twenty percent (20%) of the costs or expenses of training.

(b)(1) If any county, city, town, or state agency that employs a law enforcement officer whose costs or expenses of training were paid by another county, city, town, or state agency fails to make reimbursement for the costs or expenses of training as required in subsection (a) of this section, the county, city, town, or state agency entitled to reimbursement shall notify the Treasurer of State.

(2) The Treasurer of State shall then withhold the amount of the reimbursement due for training the law enforcement officer from the county or municipal aid of the employing county, city, town, or state agency or from funds appropriated to the employing state agency and shall remit the amount to the county, city, town, or state agency that is entitled to the reimbursement under the provisions of this section.

(c)(1) A private community with a population of more than five thousand (5,000) persons that employs certified law enforcement officers is entitled to reimbursement under this section and may remit the reimbursed costs or expenses under subsection (a) of this section to an entity contracting with the private community that paid the training costs or expenses of the certified law enforcement officers.

(2) As used in this subsection, "private community" means the same as defined in § 14-14-814.

DOMESTIC ABUSE

Introduction

This section on the Domestic Abuse Legislative has been added due to the fact that Sheriffs and police the state over are intimately aware of the problems that can arise in a serious domestic dispute.

This section is to give you, as the Sheriff, a quick reference to the Domestic Abuse Act of 1991 as codified and the legislation providing for the warrant less arrest and the crime of violation of an order of protection.

9-15-101. Purpose.

The purpose of this chapter is to provide an adequate mechanism whereby the State of Arkansas can protect the general health, welfare, and safety of its citizens by intervening when abuse of a member of a household by another member of a household occurs or is threatened to occur, thus preventing further violence. The General Assembly has assessed domestic abuse in Arkansas and believes that the relief contemplated under this chapter is injunctive, and therefore, equitable in nature. The General Assembly of the State of Arkansas hereby finds that this chapter is necessary to secure important governmental interests in the protection of victims of abuse and the prevention of further abuse through the removal of offenders from the household and other injunctive relief for which there is no adequate remedy in current law. The General Assembly hereby finds that this chapter shall meet a compelling societal need and is necessary to correct the acute and pervasive problem of violence and abuse within households in this state. The equitable nature of this remedy requires the legislature to place proceedings contemplated by this chapter under the jurisdiction of the circuit courts.

9-15-102. Title.

This chapter shall be known and may be cited as "The Domestic Abuse Act of 1991"

9-15-103. Definitions.

As used in this chapter:

(1) "County where the petitioner resides" means the county in which the petitioner physically resides at the time the petition is filed and may include a county where the petitioner is located for a short-term stay in a domestic violence shelter;

(2)(A) "Dating relationship" means a romantic or intimate social relationship between two (2) individuals that shall be determined by examining the following factors:

(i) The length of the relationship;

(ii) The type of the relationship; and

(iii) The frequency of interaction between the two (2) individuals involved in the relationship.

(B) "Dating relationship" shall not include a casual relationship or ordinary fraternization between two (2) individuals in a business or social context;

(3) "Domestic abuse" means:

(A) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members; or

(B) Any sexual conduct between family or household members, whether minors or adults, that constitutes a crime under the laws of this state; and

(4) "Family or household members" means spouses, former spouses, parents and children, persons related by blood within the fourth degree of consanguinity, in-laws, any children residing in the household, persons who presently or in the past have resided or cohabited together, persons who have or have had a child in common, and persons who are presently or in the past have been in a dating relationship together.

(5) “In- laws” mean persons related by marriage within the second degree of consanguinity.

9-15-201. Petition -Requirements generally.

(a) All petitions under this chapter shall be verified.

(b) The petition shall be filed in the county where the petitioner resides, where the alleged incident of abuse occurred, or where the respondent may be served.

(c)(1) A petition for relief under this chapter may be filed in the circuit court.

(2) A petition for relief under this chapter may be filed in a pilot district court if the jurisdiction is established by the Supreme Court under Amendment 80, Section 7 of the Arkansas Constitution and if the cases are assigned to the pilot district court through the Court Administrative Plan under the Arkansas Supreme Court Administrative Order No. 14.

(d) A petition may be filed by:

(1) Any adult family or household member on behalf of himself or herself;

(2) Any adult family or household member on behalf of another family or household member who is a minor, including a married minor;

(3) Any adult family or household member on behalf of another family or household member who has been adjudicated an incompetent; or

(4) An employee or volunteer of a domestic-violence shelter or program on behalf of a minor, including a married minor.

(e)(1) A petition for relief shall:

(A) Allege the existence of domestic abuse;

(B) Disclose the existence of any pending litigation between the parties; and

(C) Disclose any prior filings of a petition for an order of protection under this chapter.

(2) The petition shall be accompanied by an affidavit made under oath that states the specific facts and circumstances of the domestic abuse and the specific relief sought.

(f) The petition may be filed regardless of whether there is any pending litigation between the parties.

(g) A person's right to file a petition, or obtain relief hereunder shall not be affected by his or her leaving the residence or household to avoid abuse.

9-15-202. Filing fees.

(a)(1) The court, clerks of the court, and law enforcement agencies shall not require any initial filing fees or service costs.

(2) A claim or counter claim for other relief, including without limitation divorce, annulment, separate maintenance, or paternity shall not be asserted in an action brought under this subchapter except to the extent permitted in this subchapter.

(b)(1) Established filing fees may be assessed at the full hearing.

(2) Filing fees under this section shall be collected by the county official, agency, or department designated under 16-13-709 as primarily responsible for the collection of fines assessed in circuit court and shall be remitted on or before the tenth day of each month to the office of county treasurer for deposit to the county administration of justice fund.

(3) The county shall remit on or before the fifteenth day of each month all sums received in excess of the amounts necessary to fund the expenses enumerated in 16-10-307(b) and (c) during the previous month from the uniform filing fees provided for in 21-5-403, the uniform court costs provided for in 16-10-305, and the fees provided for in this section to the Administration of Justice Funds Section of the Office of Administrative Services of the Department of Finance and Administration for deposit into the State Administration of Justice Fund.

(c)(1) The abused in any domestic violence petition for relief for a protection order sought pursuant to this subchapter shall not bear the cost associated with its filing, or the costs associated with the issuance or service of a warrant and witness subpoena.

(2) Nothing in this subsection shall be construed to prohibit a judge from assessing costs if the allegations of abuse are determined to be false.

16-13-701 Scope–Definition

(a) The procedures established by this subchapter shall apply to the assessment and collection of all fines, however designated, imposed by circuit courts and district courts for criminal convictions, traffic convictions, civil violations, and juvenile delinquency adjudications and shall be utilized to obtain prompt and full payment of all fines.

(b) As used in this subchapter, "fine" means a monetary penalty imposed by a court, including without limitation:

(1) A monetary fine;
(2) Court costs;
(3) Court-ordered restitution;
(4) Probation fees;
(5) Supervision fees;
(6) Public service supervisory fees; and
(7) Other court-ordered fees.

16-10-305. Court Costs

(h)(1) An additional court cost of twenty-five dollars ($25.00) shall be assessed and remitted to the Administration of Justice Funds Section by the court clerk or designee under § 16-13-709(a) for deposit as special revenues into the Domestic Violence Shelter Fund if a person is convicted of a domestic abuse offense or is the respondent on a permanent order of protection entered by a court under the Domestic Abuse Act of 1991, § 9-15-101 et seq.

(2) When a convicted person is authorized to make installment payments under § 16-13-704, the court cost assessed under subdivision (h)(1) of this section shall be collected from the initial installment payment first.

(3) The court clerk or designee under § 16-13-709(a) shall disburse all court costs collected each month under subdivision (h)(1) of this section to the Administration of Justice Funds Section by the fifteenth working day of the following month.

9-15-203. Petition -Form.

(a) The circuit clerk shall provide simplified forms and clerical assistance to help petitioners with the writing and filing of a petition under this chapter if the petitioner is not represented by counsel.

(b) The petition form shall not require or suggest that a petitioner include his or her social security number or the social security number of the respondent in the petition. Subsection (c) sets forth the form of the petition. (Refer to 9-15-203(d) for the form of the petition)

9-15-204. Hearing -Service.

(a)(1) When a petition is filed pursuant to this chapter, the court shall order a hearing to be held on the petition for the order of protection not later than thirty (30) days from the date on which the petition is filed or at the next court date, whichever is later.

(2) A denial of an ex parte temporary order of relief does not deny the petitioner the right to a full hearing on the merits.

(b)(1) Service of a copy of the petition, the ex parte temporary order of protection, if issued, and notice of the date and place set for the hearing described in subdivision (a)(1) of this section shall be made upon the respondent:

(A) At least five (5) days before the date of the hearing; and

(B) In accordance with the applicable rules of service under the Arkansas Rules of Civil Procedure.

(2) If service cannot be made on the respondent, the court may set a new date for the hearing.

(c) This section does not preclude the court from setting an earlier hearing.

9-15-205. Relief generally -Duration.

(a) At the hearing on the petition filed under this chapter, upon a finding of domestic abuse as defined in § 9-15-103, the court may provide the following relief:

(1) Exclude the abusing party from the dwelling that the parties share or from the residence of the petitioner or victim;

(2) Exclude the abusing party from the place of business or employment, school, or other location of the petitioner or victim;

(3)(A) Award temporary custody or establish temporary visitation rights with regard to minor children of the parties.

(B)(i) If a previous child custody or visitation determination has been made by another court with

continuing jurisdiction with regard to the minor children of the parties, a temporary child custody or visitation determination may be made under subdivision (a)(3)(A) of this section.

(ii) The order shall remain in effect until the court with original jurisdiction enters a subsequent order regarding the children;

(4) Order temporary support for minor children or a spouse, with such support to be enforced in the manner prescribed by law for other child support and alimony awards;

(5) Allow the prevailing party a reasonable attorney's fee as part of the costs;

(6) Prohibit the abusing party directly or through an agent from contacting the petitioner or victim except under specific conditions named in the order;

(7) Direct the care, custody, or control of any pet owned, possessed, leased, kept, or held by either party residing in the household; and

(8)(A) Order other relief as the court deems necessary or appropriate for the protection of a family or household member.

(B) The relief may include, but not be limited to, enjoining and restraining the abusing party from doing, attempting to do, or threatening to do any act injuring, mistreating, molesting, or harassing the petitioner.

(b) Any relief granted by the court for protection under the provisions of this chapter shall be for a fixed period of time not less than ninety (90) days nor more than ten (10) years in duration, in the discretion of the court, and may be renewed at a subsequent hearing upon proof and a finding by the court that the threat of domestic abuse still exists.

9-15-206. Temporary order.

(a) When a petition under this chapter alleges an immediate and present danger of domestic abuse or that the respondent is scheduled to be released from incarceration within thirty (30) days and upon the respondent's release there will be an immediate and present danger of domestic abuse, the court shall grant a temporary order of protection pending a full hearing if the court finds sufficient evidence to support the petition.

(b) An ex parte temporary order of protection may:

(1) Include any of the orders provided in §§ 9-15-203 and 9-15-205; and

(2) Provide the following relief:

(A) Exclude the abusing party from the dwelling that the parties share or from the residence of the petitioner or victim;

(B) Exclude the abusing party from the place of business or employment, school, or other location of the petitioner or victim;

(C) Award temporary custody or establish temporary visitation rights with regard to minor children of the parties;

(D) Order temporary support for minor children or a spouse, with such support to be enforced in the manner prescribed by law for other child support and alimony awards;

(E) Prohibit the abusing party directly or through an agent from contacting the petitioner or victim except under specific conditions named in the order; and

(F)(i) Order such other relief as the court considers necessary or appropriate for the protection of a family or household member.

(ii) The relief may include without limitation enjoining and restraining the abusing party from doing, attempting to do, or threatening to do an act injuring, mistreating, molesting, or harassing the petitioner.

(c) An ex parte temporary order of protection is effective until the date of the hearing described in § 9-15-204.

(d) Incarceration or imprisonment of the abusing party shall not bar the court from issuing an ex parte temporary order of protection.

9-15-207. Protection order - Enforcement - Penalties Criminal jurisdiction.

(a) Any order of protection granted under this chapter is enforceable by a law enforcement agency with proper jurisdiction.

(b) An order of protection shall include a notice to the respondent or party restrained that:

(1) A violation of the order of protection is a Class A misdemeanor carrying a maximum penalty of one (1) year imprisonment in the county jail or a fine of up to one thousand dollars ($1,000), or both;

(2) A violation of an order of protection under this section within five (5) years of a previous conviction for violation of an order of protection is a Class D felony;

(3) It is unlawful for an individual who is subject to an order of protection or convicted of a misdemeanor of domestic violence to ship, transport, or possess a firearm or ammunition pursuant to 18 U.S.C. § 922(g)(8) and (9) as it existed on January 1, 2007; and

(4) A conviction of violation of an order of protection under this section within five (5) years of a previous conviction for violation of an order of protection is a Class D felony.

(c) For respondents eighteen (18) years of age or older or emancipated minors, jurisdiction for the criminal offense of violating the terms of an order of protection is with the circuit court or other courts having jurisdiction over criminal matters.

(d)(1) In the final order of protection, the petitioner's home or business address may be excluded from notice to the respondent.

(2) A court shall also order that the petitioner's copy of the order of protection be excluded from any address where the respondent happens to reside.

(e) A law enforcement officer shall not arrest a petitioner for the violation of an order of protection issued against a respondent.

(f) When a law enforcement officer has probable cause to believe that a respondent has violated an order of protection and has been presented verification of the existence of the order of protection, the officer may arrest the respondent without a warrant whether or not the violation occurred in the presence of the officer if the order of protection was obtained according to this chapter and the Arkansas Rules of Criminal Procedure.

(g) An order of protection issued by a court of competent jurisdiction in any county of this state is enforceable in every county of this state by any court or law enforcement officer.

9-15-208. Law enforcement assistance.

(a) When an order of protection is issued under this chapter, upon request of the petitioner the court may order a law enforcement officer with jurisdiction to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence or to otherwise assist in execution or service of the order of protection.

(b) The court may also order a law enforcement officer to assist petitioner in returning to the residence and getting personal effects.

9-15-209. Modification of orders.

Any order of protection issued by the court pursuant to petition filed as authorized herein may be modified upon application of either party, notice to all parties, and a hearing thereon.

9-15-210. Contempt proceedings.

When a petitioner or any law enforcement officer files an affidavit with a court which has issued an order of protection under the provisions of this chapter alleging that the respondent or person restrained has violated the order, the court may issue an order to the respondent or person restrained requiring the person to appear and show cause why he should not be found in contempt.

9-15-217. Order of protection — Violations — Domestic violence surveillance program — Global positioning devices.

(a)(1)(A) A person who is charged with violating an ex parte order of protection under § 5-53-134 may be ordered as a condition of his or her release from custody to be placed under electronic surveillance at his or her expense until the charge is adjudicated.

(B) A person who is charged with violating a final order of protection under § 5-53-134 may be ordered as a condition of his or her release from custody to be placed under electronic surveillance at his or her expense until the charge is adjudicated.

(2) The court having jurisdiction over the charge may order the defendant released from electronic surveillance before the adjudication of the charge.

(b) A person who is found guilty of violating an order of protection may be placed under electronic surveillance at his or her expense as part of his or her sentence for a minimum of four (4) months but not to exceed one (1) year.

(c) As used in this section, "electronic surveillance" means active surveillance technology worn by or attached to a person that is a single-piece device that immediately notifies law enforcement or other monitors of a violation of the distance requirements or locations that the defendant is barred from entering and may also include technology that:

(1) Immediately notifies the victim of any violation;

(2) Allows law enforcement or monitors to speak to the offender in some manner through or in conjunction with the device;

(3) Has a loud alarm that can be activated to warn the potential victim of the offender's presence in a place he or she is barred from entering;

(4) Is waterproof; and

(5) Can be tracked by either satellite or cellular phone tower triangulation.

5-53-134. Violation of a protection order.

(a)(1) A person commits the offense of violation of an order of protection if:

(A) A circuit court or other court with competent jurisdiction has issued a temporary order of protection or an order of protection against the person pursuant to the The Domestic Abuse Act of 1991, § 9-15-101 et seq.;

(B) The person has received actual notice or notice pursuant to the Arkansas Rules of Civil Procedure of a temporary order of protection or an order of protection pursuant to The Domestic Abuse Act of 1991, § 9-15-101 et seq.; and

(C) The person knowingly violates a condition of an order of protection issued pursuant to The Domestic Abuse Act of 1991, § 9-15-101 et seq.

(2) A person commits the offense of violation of an out-of-state order of protection if:

(A) The court of another state, a federally recognized Indian tribe, or a territory with jurisdiction over the parties and matters has issued a temporary order of protection or an order of protection against the person pursuant to the laws or rules of the other state, federally recognized Indian tribe, or territory;

(B) The person has received actual notice or other lawful notice of a temporary order of protection or an order of protection pursuant to the laws or rules of the other state, the federally recognized Indian tribe, or the territory;

(C) The person knowingly violates a condition of an order of protection issued pursuant to the laws or rules of the other state, the federally recognized Indian tribe, or the territory; and

(D) The requirements of § 9-15-302 concerning the full faith and credit for an out-of-state order of protection have been met.

(3)(A) A service member commits the offense of violation of a military order of protection if:

(i) The commanding general, a military judge, or a special courts-martial convening authority as authorized by Section 12-64-406(b) issues a military order of protection against the service member;

(ii) The service member receives actual notice or other lawful notice of the military order of protection as authorized under United States Department of Defense Instruction 6400.06, as it existed on January 1, 2017; and

(iii) The service member knowingly violates a condition of the military order of protection.

(B) A prosecution against a service member for the offense of violation of a military order of protection does not prohibit the commanding general or military commander who issued the military order of protection from pursuing appropriate disciplinary action against the service member under the Military Code of Arkansas.

(b)(1) Except as provided in subdivision (b)(2) of this section, violation of an order of protection under this section is a Class A misdemeanor.

(2) Violation of an order of protection under this section is a Class D felony if:

(A) The offense is committed within five (5) years of a previous conviction for violation of an order of protection under this section;

(B) The order of protection was issued after a hearing of which the person received actual notice and at which the person had an opportunity to participate; and

(C) The facts constituting the violation on their own merit satisfy the elements of any felony offense or misdemeanor offense, not including an offense provided for in this section.

(c)(1) A law enforcement officer may arrest and take into custody without a warrant a person whom the law enforcement officer has probable cause to believe:

(A) Is subject to an order of protection issued under the laws of this state; and

(B) Has violated the terms of the order of protection, even if the violation did not take place in the presence of the law enforcement officer.

(2) Under § 9-15-302, a law enforcement officer or law enforcement agency may arrest and take into custody without a warrant a person whom the law enforcement officer or law enforcement agency has probable cause to believe:

(A) Is subject to:

(i) An order of protection issued under the laws or rules of another state, a federally recognized Indian tribe, or a territory; or

(ii) A military order of protection; and

(B) Has violated the terms of the order of protection issued under the laws or rules of the other state, federally recognized Indian tribe, or territory, or the military order of protection, even if the violation did not take place in the presence of the law enforcement officer.

(3)(A) If a service member is in the custody of a law enforcement agency as authorized in subdivision (c)(2) of this section, the law enforcement agency shall notify the office of the Adjutant General of the Arkansas National Guard within twenty-four (24) hours from the time the service member was placed in the custody of the law enforcement agency.

(B)(i) the Arkansas National Guard shall take custody of the service member within forty-eight (48) hours from the time the service member was placed in the custody of the law enforcement agency.

(ii) However, if the Arkansas National Guard does not take custody of the service member as required

(d) It is an affirmative defense to a prosecution under this section if:

(1) The parties have reconciled prior to the violation of the order of protection; or

(2) The petitioner for the order of protection:

(A) Invited the defendant to come to the petitioner's residence or place of employment listed in the order of protection; and

(B) Knew that the defendant's presence at the petitioner's residence or place of employment would be in violation of the order of protection.

(e) Any law enforcement officer acting in good faith and exercising due care in making an arrest for domestic abuse in an effort to comply with this subchapter shall have immunity from civil or criminal liability.

(f) As used in this section:

(1) "Military order of protection" means an official command directed at a service member for the purpose of preventing violent and threatening acts against a person who:

(A) Is the current or former spouse of the service member;

(B) Is or was a child, step-child, parent, step-parent, sibling, guardian, or ward of the service member;

(C) Is residing or cohabitating or in the past has resided or cohabitated with the service member;

(D) Has or had a child in common with the service member;

(E) Is or has been in a dating relationship with the service member as defined by § 9-15-103;

(F) Has had an intimate sexual relationship with the service member; or

(G) Has made allegations against the service member of violations of the punitive article of sexual misconduct as defined by § 12-64-845; and

(2) "Service member" means a person serving in:

(A) Any branch or reserve component of the United States Armed Forces; or

(B) The National Guard of any state.

LAW ENFORCEMENT RECORDS

Introduction

To describe a complete record system needed by a sheriff's office, or to discuss total information management in today's age of computers, would not be feasible within the scope of this manual. At best, the following pages present an overview, with notations on where to obtain more details and assistance.

Records must be kept on all law enforcement activities involving the detection, apprehension, detention, and prosecution of individuals. This is accomplished through "paperwork", or the careful filling out and maintaining of various "forms".

To properly carry out his/her law enforcement responsibilities, a sheriff also needs access to information from others. An important source of such information is the state land national computer systems.

Finally, for planning and evaluation purposes, complete and accurate crime statistics are essential.

Arkansas Crime Information Center

In 1971, the Arkansas General Assembly established a special state agency to administer a computerized information system. This agency, known as the Arkansas Crime Information Center (ACIC), serves local, county and state law enforcement agencies. It is responsible not only for the state computerized system, but also provides technical assistance to enforcement officials on manual records, crime statistics reporting and use, and voice communication.

Manual Records

The fundamental law enforcement records kept by a sheriff are those covering the arrest of individuals. All departments should have pre- printed forms to record the

details of offenses and the identification of individuals arrested. Such forms may be purchased from printing companies, may be designed and printed by the county, or are available from the ACIC.

All persons arrested on felony charges, as well as on serious misdemeanor charges, should be fingerprinted. Cards for this purpose are available at no cost. Two copies of completed fingerprint cards should be immediately submitted to the state Identification Board.

Some of the other forms that should be maintained in a sheriff's office include incident reports, stolen property reports, name and warrant indexes, etc. More information on this area can be found in the "Special Assistance" section ahead.

Computerized Records

Today, all law enforcement officials make heavy use of computerized records. While only a small number of departments have their own computer, the state ACIC system, the FBI NCIC system, and the National Law Enforcement Telecommunications System (NLETS) are available to all departments at no cost.

The ACIC system contains information on motor vehicle registrations, driver license and driver history, stolen property, wanted and missing persons, and criminal histories.

The NCIC system contains information on stolen property, wanted and missing persons, criminal histories, and a national index to state criminal history records.

The NLET'S system is the national "teletype" system, allowing enforcement officials to send and receive messages to and from all other states.

The services of NCIC and NLETS are available in Arkansas through ACIC.

Uniform Crime Reporting

One of the record requirements of a sheriff is to participate in Uniform Crime Reporting, which is a national program to keep track of the number of offenses know to law enforcement, the number of arrests made, and other crime statistics. This information is reported each month to ACIC on special forms.

In addition to contributing to the vital state and national crime statistical picture, ACIC can provide compiled information back to a department on its own reported crime (for current and prior years) with special comparisons and other statistical services available at no cost.

Records of local and regional detention facilities

§ 12-12-219

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

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

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

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

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

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

(A) The state identification number of the inmate;

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

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

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

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

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

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

Special Assistance and Forms

One of the primary functions of ACIC is to provide special training and technical assistance in records management and voice communications.

ACIC Agents are assigned to multi-county areas of the state. They conduct scheduled training classes and are available on request for special assistance to individual departments or officials.

For manual records, ACIC has a variety of standard forms which are available on request at no cost to departments.

For access to the state and national computer files, a department can go through a nearby terminal site or can apply to ACIC for a terminal of its own on the ACIC network. ACIC Agents can answer any questions on these procedures.

Security and Privacy of Records

Most official law enforcement records are considered to be "open". Information regarding arrests and prosecution are never closed or kept secret.

There are exceptions, including intelligence and investigative files. These are generally not regarded as official records, but are accepted as necessary in the operation of any department. They are not "open" files.

Another exception is information received from ACIC and NCIC. State and federal statutes place very strict controls on the use of information from these computer systems. In fact, unauthorized release of certain records from the

systems can be a felony, punishable by a $5,000 fine and up to three years in the penitentiary.

Exception to Records that are Confidential and Privileged-Release

(a) (1) (A) (i) The records, files, and information kept, obtained, or retained by the State Crime Laboratory under this subchapter are privileged and confidential.

(ii) The records, files, and information shall be released only under and by the direction of a court of competent jurisdiction, the prosecuting attorney having criminal jurisdiction over the case, or the public defender appointed or assigned to the case.

(iii) In cases in which the cause and manner of death are not criminal in nature, the laboratory may communicate without prior authorization required under subdivision (a)(1)(A)(ii) of this section with the decedent's next of kin or the next of kin's designee, including without limitation:

(a) Parents;
(b) Grandparents;
(c) Siblings;
(d) Spouses;
(e) Adult children; or
(f) Legal guardians.

Introduction

The information compiled in this section of the manual is designed to assist the sheriff or his deputies in the proper preparation of a search warrant. It is based upon various manuals available for search warrant preparation and was submitted by Special Agent Donald H. Kidd of the Federal Bureau of Investigation.

SEARCH WARRANT PREPARATION

The language of the Fourth Amendment to the United States Constitution is not complex in its description of what is required to obtain a search warrant. It states, “No warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” In addition, the Arkansas Criminal Code sets forth procedural requirements for the issuance, contents, and execution of a search warrant. Thus, Arkansas warrants, both arrest and search, are judged not only as to their compliance with constitutional principles but also according to their procedural accuracy.

If the Arkansas law enforcement officer is faced with a situation where he must prepare a search warrant, he should always seek the assistance of his prosecutor, police legal advisor, or judge. These individuals have the necessary legal ability to insure the proper drafting of a legal warrant. The United States Supreme Court, however, has recognized in United States v. Ventresca, 380 U.S. 102 (1965) that affidavits for "search warrants are normally drafted by nonlawyers in the midst and haste of a criminal investigation." Accordingly, this material is intended for the Arkansas law enforcement officer who is faced with an emergency situation where he needs a search warrant and also is going to have to prepare it without the benefit of expert legal advice.

The purpose of the affidavit for a search warrant is to communicate facts in an understandable way. The preparation of the probable cause statement will not be difficult in the usual case. The basic technique is to concentrate on the answers to the questions of what, when, where, who and why in the manner of a good police report. As a general rule, when in doubt as to whether certain facts are relevant to a finding of probable cause, the law enforcement officer should included such facts in his statement. Remember, information known to the law enforcement officer but not included in the affidavit cannot be considered in the probable cause determination or later used to bolster a defective search warrant.

To provide probable cause, the affidavit must disclose sufficient facts to enable the judicial officer to make an independent determination as to whether the items sought to be seized are presently in the place to be searched. The affidavit must disclose both the specific facts upon which the judgment may be made and the source from which the law enforcement officer learned of these facts. The affidavit should provide the date on which the information presented was received by the officer as well as the date on which the source obtained the information.

There exists in Arkansas several standardized forms which are utilized by law enforcement officers in the preparation of their affidavit for search warrant.

These forms have been drafted to insure procedural compliance with the laws of Arkansas. Many of these forms, however, do not contain sufficient space to set forth full details of the probable cause statement. It is important to remember that additional pages may be incorporated in the application for search warrant by reference. Attachments may be used to provide supplemental information, as where the affidavit contains the statement, "continued on attachment No. 2," or where detailed data such as particularized descriptions of premises to be searched or directions for finding them are recorded on sheets of paper and physically attached. The important consideration is the state of the document at the time of submission to the judicial officer. If the forms, sheets, and pages are fastened so as to be intended as one instrument at the time the affiant signs it under oath, it will satisfy the form requirement just as readily as would a single page statement.

Description of Place to be Searched

The Fourth Amendment requires that the place to be searched be described with particularity. The general rule is that the description should be of sufficient particularity so that if a law enforcement officer with no knowledge of the case was assigned to execute the search warrant, he would have no difficulty in identifying and locating the person, place, or thing to be searched.

Dwelling - The complete address and a brief description of its outer appearance should be included. A phrase which makes clear the search is to encompass the entire structure should be included, and where appropriate, a description of surrounding grounds and other related building and improvements, such as storage sheds and detached garages.

For example, the description might be as follows:

> "...The premises at 1418 Cedar Drive, El Dorado, Arkansas; further described as a single-story dwelling house, Georgian brick exterior, white shutters, and a gray roof, and all rooms, attic, basement, and other parts herein, and the surrounding grounds and any garage, storage rooms, and outbuildings of any kind located thereon."

In giving a street address, it is important to specify "North," "South "East," or "West," if that is part of the address. Also, the "Street," "Place," or "Drive," as the case may be should be shown.

Apartment - An apartment unit, not the entire apartment building, should be particularly described unless probable cause dictates otherwise. The apartment number or letter must be included where possible. If such a designation is not available, the location of the apartment within the building must be otherwise definitively shown. For example:

> "1234 Dumas Road, El Dorado, Arkansas, Apartment Number 1-A; further described as an apartment unit within a two story, multi-unit apartment house, white brick structure bearing the name 'Ginger House Apartments, and all rooms, attics, and other arts within Apartment Number 1-A, and all garages, trash containers, and storage areas designated for the use of Apartment Number 1-A."

Store or Business - The address, name of the business, and a brief description of its outer appearance should be stated. For example:

> "the premises known as 'Joe's Coffee Shop,' located at 1234 Strong Highway, El Dorado, Arkansas; a coffee shop in a single-story commercial building with the word 'Joe's' appearing in large black letters on the front window, and all rooms, dining areas, service areas, kitchens, pantries, stoves, refrigerators, restrooms, and other parts within the building, including an office located in the rear of the premises, and any storage rooms, storage areas, trash areas, and trash containers attached or unattached."

Place Where Address is Unknown - If no address is known or the location is not marked with an address, a specific description will be especially important. The description should be sufficiently detailed to avoid mistaking the place to be searched. In this regard, the use of photographs and diagrams as a supplement to a written description should be considered. For example:

> "a small wooden dilapidated red barn located on the west side of Mt. Holly Road approximately 1.7 miles south of Agnes Road in Union County, Arkansas, as shown on the color photographs attached hereto and incorporated as Exhibit Number 1, and all rooms, lofts, storage areas, and the surrounding grounds." Duplicate photographs should then be marked Exhibit Number 1 and attached to the affidavit and to the search warrant.

Vehicles - As a general rule, the color, year, make, model, and license number of the vehicle to be searched are sufficient to constitute an adequate description. For example:

> " a white, 1983 Ford, Thunderbird, two-door automobile, bearing Arkansas license FDC-963."

If the license number cannot be obtained or is unknown, details of its appearance, so as to distinguish it from other vehicles, should be included. Examples of such distinguishing characteristics might be: a broken right headlight, a dented right rear fender, or a distinctive decal.

Persons - Description of a person would include the name, sex, race, age, height, weight, hair color, and eye color, as well as distinguishing tattoos or marks. if the search of the person is being conducted in conjunction with the search of the premises, the law enforcement officer should include in the description his belief that the person will be located within the described premises. Body cavity searches, unless incidental to an arrest should only be made after consultation with an attorney.

Description of Property to be Seized

The Fourth Amendment to the United States Constitution forbids a general exploratory warrant. Thus, property to be seized under a warrant should be identified as clearly and distinctly as possible. If the property lends itself to ready identification by physical description and serial number, both of which are reasonably available to the law enforcement officer, then data such as this should be included in the affidavit. In other cases, the property identified by brand name and a specific quantity will serve to distinguish the property sought. For example:

> "That the affiant has reason to believe, and does believe, that there is now being concealed certain property, to wit: a large number, believed to be 3,000, Hamilton Beach Electric Blenders, which electric blenders were part of a burglary..."

In this manner armed robbery loot could be sufficiently described by reference to the total amount or the approximate number of bills of each denomination taken. Precise descriptive data, such as complete individual serial numbers, may be impossible or impractical to furnish. As a rule of thumb, if the property is contraband property, the possession of which is unlawful, it does not have to be described in great detail; however, if it is not contraband, then greater detail must be used in describing it. Refer to A.C.A. § 5-5-101 for the disposition of contraband.

Statement of Probable Cause

In drafting a statement for a probable cause arrest warrant, the Arkansas law enforcement officer must answer the hypothetical question: "What makes you think that this individual committed the crime?" In an affidavit for search

warrant the officer must ask himself two questions: (1) "How can I show the items sought are connected with the crime?" and (2) "How can I show the items sought will be found in the place to be searched?" Remember, the results of your investigation must be recorded in such a manner that they will convey understanding of each fact and will persuade the judicial officer that an arrest and/or search is justified.

The majority of law enforcement officers have found it helpful to organize the elements of their probable cause into paragraphs. If it is possible, state the date your information was received, the individual or source of your information, the address or background about the individual who furnished the information and the observations and/or information of the source of your information. For example:

1. A statement of John Ball, Manager, Ball's Pharmacy, 115 South Jackson, El Dorado, Arkansas, on December 17,1993, to Detective James Smith, El Dorado, Arkansas, Police Department, that on the night of December 16- 17,1993, his pharmacy had been broken into and approximately 150 blank Travelers Checks had been stolen from a safe at his pharmacy.

2. A telephonic statement of James Joyce, Security Director, Travelers Checks, Inc., 1070 West 101st Street, New York, New York, on December 17,1993, to Detective Ron Herman, El Dorado, Arkansas, Police Department, that a review of their records reflected that Ball's Pharmacy, El Dorado, Arkansas, had been issued 150 Travelers Checks bearing the serial numbers..."

The Probable Cause Statement - Information From Informants

There are informants whose identities must be kept confidential. While it may be more difficult to establish reliability from such a source, the information may be nevertheless used to establish probable cause. A two-prong test is used to assess such information. The test focuses on the veracity of the informant and the factual basis of the informant's information. In other words, the law enforcement officer must show to the judicial officer that, (1) his informant is reliable, and (2) his informant's information is reliable.

The following example illustrates how information received from a reliable confidential informant might be stated:

> "on December 18,1993, Detective Ron Herman, El Dorado, Arkansas, Police Department, met with a confidential and reliable informant. This informant is believed to be reliable because he has furnished information on six past occasions within the past six months which has proven to be accurate on each occasion. The information he has furnished resulted in the recovery of property from a store burglary in El Dorado, Arkansas, as well as property stolen from a home in Union County, Arkansas. His information has also resulted in the arrest of two individuals at El Dorado, Arkansas. Further details as to past ' information provided by this informant would furnish clues to his identity. The identity of this informant should be kept confidential because disclosing his identity would impair his future usefulness to law enforcement and endanger his life." The informant told me that on December 18, 1993, he had been inside a warehouse at 1234 Robin Road, El Dorado, Arkansas, and that while there he observed two stacks of blank Travelers Checks, Inc., checks. During the time the informant was inside the warehouse there were approximately 15 or 20 other persons present. Several people came in and departed while he was there. He told me that while he was inside the warehouse he saw a man called 'Shorty, 'who was described to him as the owner of the warehouse. Shorty was described as..."

If the informant has not furnished information on previous occasions, it may still be possible to show his information is reliable. Examples of this might include information that the informant was an eyewitness to a crime; a participant in the criminal activity; his information has been sufficiently corroborated to show that the information is probably reliable; the informer could not supply this information unless he was telling the truth; or, the informant's information plus other facts together are sufficient to show reliability.

The Nighttime Warrant

Rule 13.2 of the Arkansas Rules of Criminal Procedure provides that the warrant shall be served between the hours of 6:00 a.m. and 8:00 p.m. Before a valid nighttime (8:00 p.m. to 6:00 a.m.) search under a warrant can be made, the affidavit must reflect probable cause to show that:

1. The place to be searched is difficult for speedy access; or
2. The objects to be seized are in danger of imminent removal; or
3. The warrant can only be safely or successfully executed at nighttime or under circumstances the occurrence of which is difficult to predict with accuracy.

The affidavit for search warrant must set forth probable cause of the foregoing if a nighttime warrant is desired. Thereafter, the issuing judicial officer may, by appropriate provision in the warrant, authorize its execution at any time, day or night.

Preparation Guidelines

The validity of the warrant may be jeopardized by careless or negligent mistakes in the preparation of the supporting affidavit. The following may help eliminate those mistakes:

Timely Information - If information showing probable cause to believe that a person has committed a crime is gathered, this probable cause for an arrest warrant will still be present weeks, months, or even years later. Yet, the same is not true with respect to information gathered showing probable cause to believe that certain sizable items are to be found at a particular place. In regard to information used for this purpose, it is important to clearly state in the affidavit that

the information being furnished is current. Generally, information which is over two or three weeks old is considered "stale" and needs updating to show that it can still be relied upon. Facts furnished must lead to a present probability; that is, facts taken in their entirety must describe a reasonable basis for concluding that right now there is concealed in that particular place, certain goods subject to seizure.

Specific Information - The language used in drafting a statement of probable cause should be plain and specific. Names, times, dates, addresses, events, etc., should set out in detail so as to add to the credibility of the allegation. Moreover, the specific report will reflect favorable upon the reliability of the source.

For better organization and ease of reading, a separate paragraph for each item of probable cause, or at least a separate paragraph for each source of information being used, should be included. The paragraphs can be numbered.

The statement should be limited to facts and such conclusions as may be drawn from the facts expressed. When marshaling the facts for a statement of probable cause, it is essential to present distinct and persuasive evidence. A conclusion should not be expressed without supporting facts.

Indicating Sources of Information- The judicial officer's determination of probable cause is largely dependent upon the credibility of the source of information; therefore, as a general rule, the source of each fact recited in the statement must be clearly indicated. The law enforcement officer may be the sole affiant in furnishing the facts of probable cause. He is authorized to relate his personal observations plus those facts acquired from other sources, be he is responsible for indicating which items of information are his and which are hearsay and merely being transmitted. Therefore, the source of each fact should be identified. The law enforcement officer should not, by implication or otherwise, claim credit for information as being firsthand when it is actually hearsay. Hearsay grows weaker rapidly with each person involved. Middlemen should be eliminated if at all possible in favor of attributing the facts to the original source.

TOWING INFORMATION

27-50-1217. Reporting of towing rates.

(a) If a government entity implements a nonconsent towing rotation list, the government entity shall require each towing and storage firm that tows, removes, or stores vehicles in the government entity's jurisdiction to annually file a list of the towing and storage firm's current rates for services.

(b) (1) It is an unclassified violation if a towing and storage firm:

(A) Fails to file the list required under this section; and

(B) Engages in the towing, removal, or storage of a vehicle in the jurisdiction of the government entity with which it failed to file the list.

(2)(A) The first offense under subdivision (b)(1) of this section is punishable by a fine of one thousand dollars ($1,000).

(B) The second offense or subsequent offenses under subdivision (b)(1) of this section are punishable by a fine of two thousand dollars ($2,000).

27-50-1218. Consumer complaint resolution.

(a)(1) When a consumer complaint against a towing company is filed with a law enforcement agency that administers a nonconsent written vehicle removal policy under § 27-50-1207(a)(1) against a towing company, the law enforcement agency shall submit the consumer complaint to the Arkansas Towing and Recovery Board within five (5) days of receipt of the complaint.

(2) The written consumer complaint shall include:

(A) The complainant's name and contact information;

(B) The towing company involved in the dispute;

(C) The nature of the consumer's complaint, including pertinent details that may show cause for filing a formal complaint against the towing company by the board; and

(D) The contact information for the on-scene officer who initiated the nonconsent removal of the vehicle related to the consumer complaint.

(b) To file a consumer complaint, the person shall have a vested interest in the vehicle, including without limitation the:

(1) Owner of the towed vehicle or his or her agent;

(2) Lien holder of the towed vehicle; or

(3) Company that insures the towed vehicle.

(c)(1) Upon receipt of the consumer complaint, the board shall resolve the consumer complaint within forty-five (45) calendar days after receiving the consumer complaint.

(2)(A) The complainant shall respond to a request from the board for additional information relevant to the consumer complaint within ten (10) business days after receiving the request.

(B) Failure to respond may result in the immediate dismissal of the complaint.

(C)(i) A complainant may file a written request for an extension of time with the board.

(ii) The written request for an extension shall be submitted to the board office within the ten (10) days after receiving the request for additional information under subdivision (c)(2)(A) of this section.

(iii) If the extension is granted, the board shall notify the towing company in writing of the extension.

(iv) The board may extend the period for the resolution of a complaint when conditions warrant this action.

(3)(A) The towing company shall respond to a request from the board for additional information relevant to the consumer complaint within ten (10) business days after receiving the request.

(B) Failure to respond to a request by a towing company shall result in a daily fine of up to twenty-five dollars ($25.00) per day until the information requested is received by the board.

(C)(i) The towing company may file a written request for an extension of time with the board.

(ii) The written request for an extension shall be submitted to the board office within the ten (10) days after

receiving the request for additional information under subdivision (c)(3)(A) of this section.

(iii) If the extension is granted, the board shall notify the towing company in writing of the extension.

(iv) The board may extend the period for the resolution of a complaint when conditions warrant this action.

(d)(1) Financial restitution to the complainant shall be considered as a part of the penalty by the board when a towing company or tow owner is found to have violated provisions of the rules and regulations promulgated by the board.

(2) Only actual losses that have been incurred by the complainant may be paid as restitution.

(3) A payment of financial restitution to the complainant shall be determined by the board.

(4) Punitive damages shall not be paid to the complainant.

(5) This section does not preclude the complainant's right to sue in a court of law as an alternative.

27-50-1219. Suspension from law enforcement nonconsent rotation list.

(a)(1) The Arkansas Towing and Recovery Board shall promulgate rules to establish a complaint process for the removal or suspension of a towing company from the nonconsent rotation list or imposition of fines for violation of a recognized nonconsent rotation policy upon receiving a request from a law enforcement agency.

(2) The board shall consider the following in making the determination to remove or suspend a towing company from the nonconsent rotation list:

(A) Whether the law enforcement agency's nonconsent rotation policy is reasonable; and

(B) The severity of the violation.

(3) The board may issues fines in addition to removal or suspension of a towing company from the nonconsent rotation list.

(4)(A) A towing company may be suspended from the nonconsent rotation list for a first-time violation of the law enforcement agency's policy for up to fifteen (15) days.

(B)(i) A second offense may result in a suspension of up to thirty (30) days by the law enforcement agency.

(ii) The law enforcement agency may request a hearing before the board for additional sanctions which may include a longer period of suspension from the nonconsent rotation list and a fine.

(C) A third offense may result in a suspension of a towing company from the nonconsent rotation list for up to one (1) year and a fine.

(b)(1) Except as provided under subdivision (b)(3) of this section, law enforcement shall establish a nonconsent rotation policy.

(2) An adopted nonconsent rotation policy shall be reasonable and reflect the day-to-day operations of a towing company in the immediate area.

(3) A law enforcement agency is not required to establish a nonconsent rotation policy required by subdivision (b)(1) of this section if:

(A) The law enforcement agency has an existing nonconsent rotation policy or nonconsent towing service contract in place; and

(B) The provisions of this section would have a negative impact on the law enforcement agency or nonconsent towing service contract.

(4) A law enforcement agency shall provide each towing company that participates in the nonconsent rotation with a copy of the policy and each towing company operator shall acknowledge in writing that he or she has received a copy of the policy.

(c)(1) A towing company participating in a nonconsent rotation policy administered by law enforcement shall be licensed and permitted by the board.

(2) Failure to properly license or renew with the board shall result in an immediate suspension until all permits are obtained.

(3) In addition to any law enforcement nonconsent rotation policy, a tow operator shall comply with all of the statutes and rules administered by the board.

(d) Following a suspension period of six (6) months or longer a towing company must reapply for a position on the nonconsent rotation list.

(e) Nothing in this act or rule adopted by the board shall be construed to prohibit a law enforcement agency, city, or county from:

(1) Enforcing any local nonconsent towing policies, rules, ordinances, or contracts;

(2) Removing a towing company from the local towing rotation list; or

(3) Assessing a fine, penalty, or other remedy available by law or under its contracts or policies.

Chapter 4 - ARKANSAS RULES ON CRIMINAL PROCEDURE

RULE 2. PRE-ARREST CONTACTS

Rule 2.1. Definitions.

For the purposes of this Article, unless the context otherwise plainly requires:
"Reasonable suspicion" means a suspicion based on facts or circumstances which of themselves do not give rise to the probable cause requisite to justify a lawful arrest, but which give rise to more than a bare suspicion; that is, a suspicion that is reasonable as opposed to an imaginary or purely conjectural suspicion.

Rule 2.2. Authority to request cooperation.

(a) A law enforcement officer may request any person to furnish information or otherwise cooperate in the investigation or prevention of crime. The officer may request the person to respond to questions, to appear at a police station, or to comply with any other reasonable request.
(b) In making a request pursuant to this rule, no law enforcement officer shall indicate that a person is legally obligated to furnish information or to otherwise cooperate if no such legal obligation exists. Compliance with the request for information or other cooperation hereunder shall not be regarded as involuntary or coerced solely on the ground that such a request was made by a law enforcement officer.

Rule 2.3. Warning to persons asked to appear at a police station.

If a law enforcement officer acting pursuant to this rule requests any person to come to or remain at a police station, prosecuting attorney's office or other similar place, he shall take such steps as are reasonable to make clear that there is no legal obligation to comply with such a request.

RULE 3. DETENTION WITHOUT ARREST

Rule 3.1. Stopping and detention of person: time limit.

A law enforcement officer lawfully present in any place may, in the performance of his duties, stop and detain any person who he reasonably suspects is committing, has committed, or is about to commit (1) a felony, or (2) a misdemeanor involving danger of forcible injury to persons or of appropriation of or damage to property, if such action is reasonably necessary either to obtain or verify the identification of the person or to determine the lawfulness of his conduct. An officer acting under this rule may require the person to remain in or near such place in the officer's presence for a period of not more than fifteen (15) minutes or for such time as is reasonable under the circumstances. At the end of such period the person detained shall be released without further restraint, or arrested and charged with an offense.

Rule 3.2. Advice as to reason for detention.

A law enforcement officer who has detained a person under Rule 3.1 shall immediately advise that person of his official identity and the reason for the detention.

Rule 3.3. Use of force.

A law enforcement officer acting under the authority of Rule 3.1 may use such nondeadly force as may be reasonably necessary under the circumstances to stop and detain any person for the purposes authorized by Rules 3.1 through 3.5.

Rule 3.4. Search for weapons.

If a law enforcement officer who has detained a person under Rule 3.1 reasonably suspects that the person is armed and presently dangerous to the officer or others, the officer or someone designated by him may search the outer clothing of such person and the immediate surroundings for, and seize, any weapon or other dangerous thing which may be used against the officer or others. In no event shall this search be more extensive than is reasonably necessary to ensure the safety of the officer or others.

Rule 3.5. Stop of witness to crime.

Whenever a law enforcement officer has reasonable cause to believe that any person found at or near the scene of a felony is a witness to the offense, he may stop that person. After having identified himself, the officer must advise the person of the purpose of the stopping and may then demand of him his name, address, and any information he may have regarding the offense. Such detention shall in all cases be reasonable and shall not exceed fifteen (15) minutes unless the person shall refuse to give such information, in which case the person, if detained further, shall immediately be brought before any judicial officer or prosecuting attorney to be examined with reference to his name, address, or the information he may have regarding the offense.

RULE 4. ARREST: GENERAL PROVISIONS

Rule 4.1. Authority to arrest without warrant.

(a) A law enforcement officer may arrest a person without a warrant if:
(i) the officer has reasonable cause to believe that such person has committed a felony;
(ii) the officer has reasonable cause to believe that such person has committed a traffic offense involving:
(A) death or physical injury to a person; or
(B) damage to property; or
(C) driving a vehicle while under the influence of any intoxicating liquor or drug;

(iii) the officer has reasonable cause to believe that such person has committed any violation of law in the officer's presence;
(iv) the officer has reasonable cause to believe that such person has committed acts which constitute a crime under the laws of this state and which constitute domestic abuse as defined by law against a family or household member and which occurred within four (4) hours preceding the arrest if no physical injury was involved or 12 (twelve) hours preceding the arrest if physical injury, as defined in Ark. Code Ann. § 5-1-102, was involved;
(v) the officer is otherwise authorized by law.
(b) A private person may make an arrest where he has reasonable grounds for believing that the person arrested has committed a felony.
(c) An arrest shall not be deemed to have been made on insufficient cause hereunder solely on the ground that the officer or private citizen is unable to determine the particular offense which may have been committed.
(d) A warrantless arrest by an officer not personally possessed of information sufficient to constitute reasonable cause is valid where the arresting officer is instructed to make the arrest by a police agency which collectively possesses knowledge sufficient to constitute reasonable cause.
(e) A person arrested without a warrant shall not be held in custody unless a judicial officer determines, from affidavit, recorded testimony, or other information, that there is reasonable cause to believe that the person has committed an offense. Such reasonable cause determination shall be made promptly, but in no event longer than forty-eight (48) hours from the time of arrest, unless the prosecuting attorney demonstrates that a bona fide emergency or other extraordinary circumstance justifies a delay longer than forty-eight (48) hours. Such reasonable cause determination may be made at the first appearance of the arrested person pursuant to Rule 8.1.

Rule 4.2. Authority to arrest with warrant.

Any law enforcement officer may arrest a person pursuant to a warrant in any county in the state.

Rule 4.3. Arrest pursuant to warrant: possession of warrant unnecessary.

A law enforcement officer need not have a warrant in his possession at the time of an arrest, but upon request he shall show the warrant to the accused as soon as possible. If the officer does not have the warrant in his possession at the time of the arrest, he shall inform the accused of the fact that the warrant has been issued.

Rule 4.4. Procedures on arrest.

Upon making an arrest, a law enforcement officer shall
(a) identify himself as such unless his identity is otherwise apparent;
(b) inform the arrested person that he is under arrest; and
(c) as promptly as is reasonable under the circumstances, inform the arrested person of the cause of the arrest.

Rule 4.5. Limitations on questioning.

No law enforcement officer shall question an arrested person if the person has indicated in any manner that he does not wish to be questioned, or that he wishes to consult counsel before submitting to any questioning.

Rule 4.6. Procedures on arrest: prompt taking to police station.

Any person arrested, if not released pursuant to these rules, shall be brought promptly to a jail, police station, or other similar place. The arresting officer may, however, first take the person to some other place, if:
(a) the person so requests; or
(b) such action is reasonably necessary for the purpose of having the person identified:
(i) by a person who is otherwise unlikely to be able to make the identification; or
(ii) by a person near the place of the arrest or near the scene of a recently committed offense.

Rule 4.7 Recording Custodial Interrogations.

(a) Whenever practical, a custodial interrogation at a jail, police station, or other similar place, should be electronically recorded.
(b)(1) In determining the admissibility of any custodial statement, the court may consider, together with all other relevant evidence and consistent with existing law, whether an electronic recording was made; if not, why not; and whether any recording is substantially accurate and not intentionally altered.
(2) The lack of a recording shall not be considered in determining the admissibility of a custodial statement in the following circumstances:
(A) a statement made by the accused in open court at his or her trial, before a grand jury, or at a preliminary hearing,
(B) a statement made during a custodial interrogation that was not recorded because electronic recording was not practical,
(C) a voluntary statement, whether or not the result of a custodial interrogation, that has a bearing on the credibility of the accused as a witness,
(D) a spontaneous statement that is not made in response to a question,
(E) a statement made after questioning that is routinely asked during the processing of the arrest of the suspect,
(F) a statement made during a custodial interrogation by a suspect who requests, prior to making the statement, to respond to the interrogator's questions only if an electronic recording is not made of the statement, provided that an electronic recording is made of the statement of agreeing to respond to the interrogator's question, only if a recording is not made of the statement, or
(G) a statement made during a custodial interrogation that is conducted out-of-state.
(3) Nothing in this rule precludes the admission of a statement that is used only for impeachment and not as substantive evidence.
(c) An electronic recording must be preserved until the later

of:
(1) the date on which the defendant's conviction for any offense relating to the statement is final and all direct and post-conviction proceedings are exhausted, or
(2) the date on which the prosecution for all offenses relating to the statement is barred by law.
(d) In this rule, "electronic recording" includes motion picture, audiotape, or videotape, or digital recording.

RULE 5. RELEASE BY A LAW ENFORCEMENT OFFICER ACTING WITHOUT AN ARREST WARRANT

Rule 5.1. Definitions.

For the purposes of this Article, unless the context otherwise plainly requires:
(a) "Citation" means a written order, issued by a law enforcement officer who is authorized to make an arrest, requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time.
(b) "Summons" means an order issued by a judicial officer or, pursuant to the authorization of a judicial officer, by the clerk of a court, requiring a person against whom a criminal charge has been filed to appear in a designated court at a specified date and time.
(c) "Order to appear" means an order issued by a judicial officer at or after the defendant's first appearance releasing him from custody or continuing him at large pending disposition of his case but requiring him to appear in court or in some other place at all appropriate times.
(d) "Release on own recognizance" means the release of a defendant without bail upon his promise to appear at all appropriate times, sometimes referred to as "personal recognizance."
(e) "Release on bail" means the release of a defendant upon the execution of a bond, with or without sureties, which may be secured by the pledge of money or property.
(f) "First appearance" means the first proceeding at which a defendant appears before a judicial officer.

Rule 5.2. Authority to issue citations.

(a) A law enforcement officer in the field acting without a warrant who has reasonable cause to believe that a person has committed any misdemeanor may issue a citation in lieu of arrest or continued custody.
(b) When a person is arrested for any misdemeanor, the ranking officer on duty at the place of detention to which the arrested person is taken may issue a citation in lieu of continued custody.
(c) Upon the recommendation of a prosecuting attorney, the ranking officer on duty at the place of detention to which the arrested person is taken may issue a citation in lieu of continued custody when the person has been arrested for a felony.
(d) In determining whether to continue custody or issue a citation under (a) or (b) above, the officer shall inquire into and consider facts about the accused, including but not limited to:
(i) place and length of residence;
(ii) family relationships;
(iii) references;
(iv) present and past employment;
(v) criminal record; and
(vi) other relevant facts such as:
(A) whether an accused fails to identify himself satisfactorily;
(B) whether an accused refuses to sign a promise to appear pursuant to citation;
(C) whether detention is necessary to prevent imminent bodily harm to the accused or to another;
(D) whether the accused has ties to the jurisdiction reasonably sufficient to assure his appearance and there is a substantial likelihood that he will respond to a citation;
(E) whether the accused previously has failed to appear in response to a citation.

Rule 5.3. Form of citation.

(a) Every citation issued to a person shall:
(i) be in writing;
(ii) state the name of the officer issuing it with the title of his office;
(iii) state the date of issuance and the municipality or county where issued;
(iv) specify the name of the accused and the offense alleged;
(v) designate a time, place, and court for the appearance of the accused; and
(vi) except in case of an electronic citation, provide a space for the signature of the accused acknowledging his promise to appear.
(b) Every citation shall inform the accused that failure to appear at the stated time, place, and court may result in his arrest and shall constitute a separate offense for which he may be prosecuted.

Rule 5.4. Procedure for issuing citations.

(a) In issuing a citation the officer shall deliver one (1) copy of the citation to the accused.
(b) The officer shall thereupon release the accused or, if the person appears mentally or physically unable to care for himself, take him to an appropriate medical facility.
(c) As soon as practicable, one (1) copy of the citation shall be filed with the court specified therein, and one (1) copy shall be delivered to the prosecuting attorney. If an electronic citation is issued, (i) either a written or electronic copy of the citation shall be filed with the court specified therein as designated by the clerk of that court, and (ii) either a written or electronic copy of the citation shall be delivered to the prosecuting attorney as designated by the prosecuting attorney.

Rule 5.5. [Repealed.]

RULE 6. ISSUANCE OF SUMMONS IN LIEU OF ARREST WARRANT

Rule 6.1. Authority to issue summons.

(a) A judicial officer with the authority to issue an arrest warrant may issue, or authorize the clerk of the court to issue, a criminal summons in lieu thereof in any case in

which a complaint, information, or indictment is filed or returned against a person not already in custody.
(b) A prosecuting attorney who files an information or approves the filing of a complaint against a person not already in custody may authorize the clerk of a court to issue a criminal summons in lieu of an arrest warrant.
(c) A summons shall not be issued pursuant to this Rule if:
(I)1 the offense, or the manner in which it was committed, involved violence to a person or the risk or threat of imminent serious bodily injury; or
(ii) it appears that the person charged would not respond to a summons.

In determining whether the defendant would respond to a summons, appropriate considerations include, but are not limited to:
(A) the nature and circumstances of the offense charged;
(B) the weight of the evidence against the person;
(C) place and length of residence;
(D) present and past employment;
(E) family relationship;
(F) financial circumstances;
(G) apparent mental condition;
(H) past criminal record;
(I) previous record of appearance at court proceedings; and
(J) any other relevant information.

Rule 6.2. Form of summons.

(a) A summons shall:
(i) be in writing;
(ii) be signed by the officer issuing it with the title of his office;
(iii) state the date of issuance and the municipality or county where issued;
(iv) specify the name of the accused and the offense alleged;
(v) designate a time, place, and court for the appearance of the accused; and
(vi) have attached a copy of the information, complaint or indictment.
(b) Every summons shall inform the accused that failure to appear at the stated time, place, and court may result in his arrest and shall constitute a separate offense for which he may be prosecuted.
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Rule 6.3. Service of criminal summons.

Criminal summons may be served by:
(a) any method prescribed for personal service of civil process; or
(b) certified mail, for delivery to addressee only with return receipt requested.

RULE 7. ARREST WITH A WARRANT

Rule 7.1. Arrest with a warrant: basis for issuance of arrest warrant.

(a) A judicial officer may issue an arrest warrant for a person who has failed to appear in response to a summons or citation.

(b) In addition, a judicial officer may issue a warrant for the arrest of a person if, from affidavit, recorded testimony, or other documented information, it appears there is reasonable cause to believe an offense has been committed and the person committed it. A judicial officer may issue a summons in lieu of an arrest warrant as provided in Rule 6.1. An affidavit or other documented information in support of an arrest warrant may be transmitted to the issuing judicial officer by facsimile or by other electronic means. Recorded testimony in support of an arrest warrant may be received by telephone or other electronic means provided the issuing judicial officer first administers an oath by telephone or other electronic means to the person testifying in support of the issuance of the warrant.
(c) A judicial officer who has determined that an arrest warrant should be issued may authorize the clerk of the court or his deputy to issue the warrant.

Rule 7.2. Form of warrant.

(a) Every arrest warrant shall:
(i) be in writing and in the name of the state;
(ii) be directed to all law enforcement officers in the state;
(iii) be signed by the issuing official with the title of his office and the date of issuance;
(iv) specify the name of the accused or, if his name is unknown, any name or description by which he can be identified with reasonable certainty;
(v) have attached a copy of the information, if filed, or, if not filed, a copy of any affidavit supporting issuance; and
(vi) command that the accused be arrested and that unless he complies with the terms of release specified in the warrant he be brought before a judicial officer without unnecessary delay.
(b) The warrant may specify the manner in which it is to be executed, and may specify terms of release and requirements for appearance.

Rule 7.3. Return of warrant and summons; execution after return.

(a) The law enforcement officer executing a warrant shall make return thereof to the court before which the accused is brought, and notice thereof shall be given to the prosecuting attorney.
(b) On or before the date for appearance the officer to whom a summons was delivered for service shall make return thereof to the judicial officer before whom the summons is returnable.
(c) At any time while a complaint, information or indictment is pending, the issuing official may deliver a warrant returned unexecuted and not cancelled, or a summons returned unserved, or a duplicate of either to a law enforcement officer or other authorized person for execution or service.
(d) Upon return of a warrant, whether executed or unexecuted, the warrant along with the affidavit or sworn testimony on application shall be filed with the clerk of the issuing judicial officer, and they shall be publically accessible unless the court for good cause based upon reasonably specific facts orders that any of them should be closed or sealed.

(e) Arrest warrants, affidavits, or sworn testimony on application are filed in the warrant docket as described in Administrative Order Number 2 or 18. Administrative Order Number 19 governs public access to documents in the warrant docket subject to the provisions of this rule (see section (VII)(A)(3); see section (VIII) for obtaining access to documents excluded from public access). Remote electronic access to the warrant docket by the general public, however, shall be governed by and subject to the policies or requirement of the court.

RULE 8. RELEASE BY JUDICIAL OFFICER AT FIRST APPEARANCE

Rule 8.1. Prompt first appearance.

An arrested person who is not released by citation or by other lawful manner shall be taken before a judicial officer without unnecessary delay.

Rule 8.2. Appointment of counsel.

(a) A judicial officer shall determine whether the defendant is indigent and, if so, appoint counsel to represent him or her at the first appearance, unless the defendant knowingly and intelligently waives the appointment of counsel. The court need not appoint counsel if the indigent defendant is charged with a misdemeanor and the court has determined that under no circumstances will incarceration be imposed as a part of any punishment. A suspended or probationary sentence to incarceration shall be considered a sentence to incarceration if revocation of the suspended or probationary sentence may result in the incarceration of the indigent without the opportunity to contest guilt of the offense for which incarceration is imposed.
(b) Attorneys appointed by district courts may receive fees for services rendered upon certification by the presiding judicial officer if provision therefor has been made by the county or municipality in which the offense is committed or the services are rendered. Attorneys so appointed shall continue to represent the indigent accused until relieved for good cause or until substituted by other counsel.

Rule 8.3. Nature of first appearance.

(a) Upon the first appearance of the defendant the judicial officer shall inform him of the charge. The judicial officer shall also inform the defendant that:
(i) he is not required to say anything, and that anything he says can be used against him;
(ii) he has a right to counsel; and
(iii) he has a right to communicate with his counsel, his family, or his friends, and that reasonable means will be provided for him to do so.
(b) No further steps in the proceedings other than pretrial release inquiry may be taken until the defendant and his counsel have had an adequate opportunity to confer, unless the defendant has intelligently waived his right to counsel or has refused the assistance of counsel.
(c) The judicial officer, if unable to dispose of the case at the first appearance, shall proceed to decide the question of the pretrial release of the defendant. In so doing, the judicial officer shall first determine by an informal, non-adversary hearing whether there is probable cause for detaining the arrested person pending further proceedings. The standard for determining probable cause at such hearing shall be the same as that which governs arrests with or without a warrant.

Rule 8.4. Pretrial release inquiry: in what circumstances conducted.

(a) An inquiry by the judicial officer into the relevant facts which might affect the pretrial release decision shall be made:
(i) in all cases where the maximum penalty for the offense charged exceeds one (1) year and the prosecuting attorney does not stipulate that the defendant may be released on his own recognizance;
(ii) in those cases where the maximum penalty for the offense charged is less than one (1) year and in which a law enforcement officer gives notice to the judicial officer that he intends to oppose release of the defendant on his own recognizance.
(b) In all other cases, the judicial officer may release the defendant on his own recognizance or on order to appear without conducting a pretrial release inquiry.

Rule 8.5. Pretrial release inquiry: when conducted; nature of.

(a) A pretrial release inquiry shall be conducted by the judicial officer prior to or at the first appearance of the defendant.
(b) The inquiry should take the form of an assessment of factors relevant to the pretrial release decision, such as:
(i) the defendant's employment status, history and financial condition;
(ii) the nature and extent of his family relationships;
(iii) his past and present residence;
(iv) his character and reputation;
(v) persons who agree to assist him in attending court at the proper times;
(vi) the nature of the current charge and any mitigating or aggravating factors that may bear on the likelihood of conviction and the possible penalty;
(vii) the defendant's prior criminal record, if any, and, if he previously has been released pending trial, whether he appeared as required;
(viii) any facts indicating the possibility of violations of law if the defendant is released without restrictions; and
(ix) any other facts tending to indicate that the defendant has strong ties to the community and is not likely to flee the jurisdiction.
(c) The prosecuting attorney should make recommendations to the judicial officer concerning:
(i) the advisability and appropriateness of pretrial release;
(ii) the amount and type of bail bond;
(iii) the conditions, if any, which should be imposed on the defendant's release.

Rule 8.6. Time for Filing Formal Charge.

If the defendant is continued in custody subsequent to the first appearance, the prosecuting attorney shall file an indictment or information in a court of competent jurisdiction

within sixty days of the defendant's arrest. Failure to file an indictment or information within sixty days shall not be grounds for dismissal of the case against the defendant, but shall, upon motion of the defendant, result in the defendant's release from custody unless the prosecuting attorney establishes good cause for the delay. If good cause is shown, the court shall reconsider bail for the defendant.

Rule 8.7 Use of Video Conferences in Pretrial Proceedings

(a) **If the defendant is confined in a jail, prison, or other detention facility, a first appearance as provided in Rules 8.1 and 8.3 or a pretrial release inquiry as provided in Rule 8.4 may be conducted by video conference as provided in this rule.**
(b) **Any video conferencing system used under this rule must meet all the following requirements:**
(1) **All participants in the proceeding must be able to see, hear, and communicate with each other simultaneously during the proceeding.**
(2) **All participants in the proceeding must be able to see and hear any witnesses who may testify in the proceeding.**
(3) **All participants in the proceeding must be able to see, hear, and otherwise observe any physical evidence or exhibits presented during the proceeding, either by video, facsimile, or other method.**
(4) **The video quality of the video conferencing system must be adequate to allow the participants to observe each other's demeanor and nonverbal expressions as well as the demeanor and nonverbal expressions of any witnesses who testify in the proceeding.**
(5) **If the defendant is represented by an attorney, the attorney shall, upon request, be provided with the opportunity for confidential communication with the defendant.**
(c) **As used in this rule, the "participants in the proceeding" mean the judicial officer conducting the proceeding, the prosecuting or deputy prosecuting attorney, the defendant, and, if the defendant is represented by an attorney, the attorney.**
(d) **An attorney representing a defendant during a video conference may elect to be present either in the courtroom with the presiding judicial officer or in the place where the defendant is confined. With the approval of the court, an attorney may represent a defendant during a video conference from a location other than the courtroom or the place of detention.**

RULE 9. THE RELEASE DECISION

Rule 9.1. Release on order to appear or on defendant's own recognizance.

(a) At the first appearance the judicial officer may release the defendant on his personal recognizance or upon an order to appear.
(b) Where conditions of release are found necessary, the judicial officer should impose one (1) or more of the following conditions:
(i) place the defendant under the care of a qualified person or organization agreeing to supervise the defendant and assist him in appearing in court;
(ii) place the defendant under the supervision of a probation officer or other appropriate public official;
(iii) impose reasonable restrictions on the activities, movements, associations, and residences of the defendant;
(iv) release the defendant during working hours but require him to return to custody at specified times; or
(v) impose any other reasonable restriction to ensure the appearance of the defendant.

Rule 9.2. Release on money bail.

(a) The judicial officer shall set money bail only after he determines that no other conditions will reasonably ensure the appearance of the defendant in court.
(b) If it is determined that money bail should be set, the judicial officer shall require one (1) of the following:
(i) the execution of an unsecured bond in an amount specified by the judicial officer, either signed by other persons or not;
(ii) the execution of an unsecured bond in an amount specified by the judicial officer, accompanied by a deposit of cash or securities equal to ten per cent (10%) of the face amount of the bond. Ninety per cent (90%) of the deposit shall be returned at the conclusion of the proceedings, provided the defendant has not defaulted in the performance of the conditions of the bond; or
(iii) the execution of a bond secured by the deposit of the full amount in cash, or by other property, or by obligation of qualified sureties.
(c) In setting the amount of bail the judicial officer should take into account all facts relevant to the risk of wilful nonappearance including:
(i) the length and character of the defendant's residence in the community;
(ii) his employment status, history and financial condition;
(iii) his family ties and relationship;
(iv) his reputation, character and mental condition;
(v) his past history of response to legal process;
(vi) his prior criminal record;
(vii) the identity of responsible members of the community who vouch for the defendant's reliability;
(viii) the nature of the current charge, the apparent probability of conviction and the likely sentence, in so far as these factors are relevant to the risk of nonappearance; and
(ix) any other factors indicating the defendant's roots in the community.
(d) Nothing in this rule shall be construed to prohibit a judicial officer from permitting a defendant charged with an offense other than a felony from posting a specified sum of money which may be forfeited or applied to a fine and costs in lieu of any court appearance.
(e) An appearance bond and any security deposit required as a condition of release pursuant to subsection (b) of this rule shall serve to guarantee all subsequent appearances of a defendant on the same charge or on other charges arising out of the same conduct before any court, including appearances relating to appeals and upon remand. If the defendant is required to appear before a court other than the one ordering release, the order of release together with the appearance bond and any security or deposit shall be transmitted to the court before which the defendant is required to appear. This subsection shall not be construed to

prevent a judicial officer from:
(i) decreasing the amount of bond, security or deposit required by another judicial officer; or
(ii) upon making written findings that factors exist increasing the risk of wilful nonappearance, increasing the amount of bond, security, or deposit required by another judicial officer. Upon an increase in the amount of bond or security, a surety may surrender a defendant.

Rule 9.3. Prohibition of wrongful acts pending trial.

If it appears that there exists a danger that the defendant will commit a serious crime or will seek to intimidate witnesses, or will otherwise unlawfully interfere with the orderly administration of justice, the judicial officer, upon the release of the defendant, may enter an order:
(a) prohibiting the defendant from approaching or communicating with particular persons or classes of persons, except that no such order shall be deemed to prohibit any lawful and ethical activity of defendant's counsel;
(b) prohibiting the defendant from going to certain described geographical areas or premises;
(c) prohibiting the defendant from possessing any dangerous weapon, or engaging in certain described activities or indulging in intoxicating liquors or in certain drugs;
(d) requiring the defendant to report regularly to and remain under the supervision of an officer of the court.

Rule 9.4. Notice of penalties.

(a) When the conditions of the release of a defendant are determined or an order is entered under Rule 9.3, the judicial officer shall inform the defendant of the penalties for failure to comply with the conditions or terms of such order.
(b) All conditions of release and terms of orders under Rule 9.3 shall be recorded in writing and a copy given to the defendant.

Rule 9.5. Violations of conditions of release.

(a) A judicial officer shall issue a warrant directing that the defendant be arrested and taken forthwith before any judicial officer having jurisdiction of the charge for a hearing when the prosecuting attorney submits a verified application alleging that:
(i) the defendant has wilfully violated the conditions of his release or the terms of an order under Rule 9.3; or
(ii) pertinent information which would merit revocation of the defendant's release has become known to the prosecuting attorney.
(b) A law enforcement officer having reasonable grounds to believe that a released defendant has violated the conditions of his release or the terms of an order under Rule 9.3 is authorized to arrest the defendant and to take him forthwith before any judicial officer having jurisdiction when it would be impracticable to secure a warrant.
(c) After a hearing, and upon finding that the defendant has wilfully violated reasonable conditions or the terms of an order under Rule 9.3 imposed on his release, the judicial officer may impose different or additional conditions of release upon the defendant or revoke his release.

[Order for Issuance of Arrest Warrant and Summons/Order for Surety to Appear]

IN THE CIRCUIT COURT OF _____ COUNTY, ARKANSAS
_____ DIVISION
STATE OF ARKANSAS
VS. N

_____

ORDER FOR ISSUANCE OF
ARREST WARRANT AND SUMMONS/ORDER
FOR SURETY TO APPEAR

On this ___ day of _____, 20___, comes on for consideration the oral motion of the State of Arkansas, by its Prosecuting Attorney for this County, requesting the forfeiture of the defendant's bail bond and issuance of an alias bench warrant for the immediate arrest of the defendant.
From the statements of the Prosecuting Attorney, a review of the records applicable to this case, and the applicable law, the Court finds that:
(1) The defendant had been directed to appear before the Court on this date at ___ o'clock _____. m. but failed to respond or to appear before the Court as directed.
(2) The defendant has been released from custody, having caused a bail bond to be executed in favor of _____ County, Arkansas in the penal sum of $ ___, with said defendant as principal and _____ as surety thereon, which bond guaranteed the defendant's appearance on said date and on all dates as directed by the Court in these proceedings.
(3) No reasonable excuse has been advanced to justify the defendant's failure to appear as directed.
THEREFORE, it is herein considered, ordered and adjudged that the Circuit Clerk be, and hereby is directed to promptly cause an alias bench warrant to be issued for the immediate arrest of the defendant, and to cause the warrant to be delivered to the Sheriff of this Court for service upon the defendant. Upon the apprehension or surrender of the defendant, the initial appearance (bail) bond shall be $ ___; and
IT IS FURTHER ORDERED that the Circuit Clerk be, and hereby is directed to promptly notify the surety (one or more) that the defendant should be surrendered to the Sheriff of this Court as required by the terms of the bail bond and notify the surety (one or more) to appear before the Circuit Court on the ___ day of _____, 20___, at ___ o'clock _____ m. to show cause why the full amount specified in the bail bond or the money, if any, deposited in lieu of bail should not be forfeited to _____ County.
If the surety (one or more) does not appear at the hearing scheduled by the Court, each surety on the bond shall be liable, jointly and severally, for payment of the amount forfeited. If the surety desires to be represented by an attorney, such attorney should appear at the hearing.
Entry of the Order of Forfeiture by the Court shall constitute a personal judgment against each surety on the bond, for which execution and other lawful process may issue.
The officer who is responsible for taking the bail bond is also ordered to appear before the Court on the date and at the time noted above, unless (1) the surety is a bail bondsman, or (2) the officer accepted cash in the amount of bail.
IT IS SO ORDERED on this ___ day of _____, 20___.

RULE 10. GENERAL PROVISIONS ON SEARCH AND SEIZURE

RULE 10.1. Definitions

For the purposes of this Article, unless a different meaning is plainly required:
(a) "Search" means any intrusion other than an arrest, by an officer under color of authority, upon an individual's person, property, or privacy, for the purpose of seizing individuals or things or obtaining information by inspection or surveillance, if such intrusion, in the absence of legal authority or sufficient consent, would be a civil wrong, criminal offense, or violation of the individual's rights under the Constitution of the United States or this state.
(b) "Seizure" means the taking of any person or thing or the obtaining of information by an officer pursuant to a search or under other color of authority.
(c) "Search warrant" means an order issued by a judicial officer authorizing a search or seizure or both.
(d) "Officer" means a law enforcement officer or other person acting under color of authority to search and seize.
(e) "Individual" includes a corporation.
(f) "Vehicle" includes any craft or device for the transportation of persons or things by land, sea or air.
(g) "Property" means real or personal property, including vehicles.
(h) "Reasonable cause to believe" means a basis for belief in the existence of facts which, in view of the circumstances under and purposes for which the standard is applied, is substantial, objective, and sufficient to satisfy applicable constitutional requirements.
(i) "Reasonable belief" means a belief based on reasonable cause to believe.

RULE 10.2. Permissible Objects of Seizure.

(a) Unless prohibited by other express provision, the following are subject to seizure:
(i) evidence of or other information except privileged information concerning the commission of a criminal offense or other violation of law;
(ii) contraband, the fruits of crime, or things possessed in violation of the laws of this state;
(iii) weapons or other things used or likely to be used as means of committing a criminal offense; and
(iv) an individual for whose arrest there is reasonable cause, or who is unlawfully held in confinement or other restraint.

RULE 11. SEARCH AND SEIZURE BY CONSENT.

RULE 11.1. Authority to Search and Seize Pursuant to Consent.

(a) An officer may conduct searches and make seizures without a search warrant or other color of authority if consent is given to the search.
(b) The state has the burden of proving by clear and positive evidence that consent to a search was freely and voluntarily given and that there was no actual or implied duress or coercion.
(c) A search of a dwelling based on consent is invalid under this rule unless the person giving the consent was advised of the right to refuse consent. For purposes of this subsection, a "dwelling" means a building or other structure where any person lives or which is customarily used for overnight accommodation of persons. Each unit of a structure divided into separately occupied units is itself a dwelling.

RULE 11.2. Persons from Whom Effective Consent May be Obtained.

The consent justifying a search and seizure can only be given, in the case of:
(a) search of an individual's person, by the individual in question or, if the person is under fourteen (14) years of age, by both the individual and his parent, guardian, or a person in loco parentis;
(b) search of a vehicle, by the person registered as its owner or in apparent control of its operation or contents at the time consent is given; and
(c) search of premises, by a person who, by ownership or otherwise, is apparently entitled to give or withhold consent.

RULE 11.3. Search Limited by Scope of Consent.

A search based on consent shall not exceed, in duration or physical scope, the limits of the consent given.

RULE 11.4. Items Seized: Receipt.

fter making a seizure, the officer shall make a list of the things seized, and shall deliver a receipt fairly describing the things seized to the person consenting to the search.

RULE 11.5. Withdrawal or Limitation of Consent.

A consent given may be withdrawn or limited at any time prior to the completion of the search, and if so withdrawn or limited, the search under authority of the consent shall cease, or be restricted to the new limits, as the case may be. Things discovered and subject to seizure prior to such withdrawal or limitation of consent shall remain subject to seizure despite such change or termination of the consent.

RULE 12. SEARCH AND SEIZURE TO ARREST.

RULE 12.1. Permissible Purposes.

An officer who is making a lawful arrest may, without a search warrant, conduct a search of the person or property of the accused for the following purposes only:
(a) to protect the officer, the accused, or others;
(b) to prevent the escape of the accused;
(c) to furnish appropriate custodial care if the accused is jailed; or
(d) to obtain evidence of the commission of the offense for which the accused has been arrested or to seize contraband, the fruits of crime, or other things criminally possessed or used in conjunction with the offense.

RULE 12.2. Search of the Person: Permissible Scope.

An officer making an arrest and the authorized officials at the police station or other place of detention to which the accused is brought may conduct a search of the accused's garments and personal effects ready to hand, the surface of his body, and the area within his immediate control.

RULE 12.3. Search of the Person: Search of Body Cavities.

(a) Search of an accused's blood stream, body cavities, and subcutaneous tissues conducted incidental to an arrest may be made only:
(i) if there is a strong probability that it will disclose things subject to seizure and related to the offense for which the individual was arrested; and
(ii) if it reasonably appears that the delay consequent upon procurement of a search warrant would probably result in the disappearance or destruction of the objects of the search; and
(iii) if it reasonably appears that the search is otherwise reasonable under the circumstances of the case, including the seriousness of the offense and the nature of the invasion of the individual's person.
(b) Any search pursuant to this rule shall be conducted by a physician or a licensed nurse.

RULE 12.4. Search of Vehicles: Permissible Circumstances.

(a) If, at the time of the arrest, the accused is in a vehicle or in the immediate vicinity of a vehicle of which he is in apparent control, and if the circumstances of the arrest justify a reasonable belief on the part of the arresting officer that the vehicle contains things which are connected with the offense for which the arrest is made, the arresting officer may search the vehicle for such things and seize any things subject to seizure and discovered in the course of the search.
(b) The search of a vehicle pursuant to this rule shall only be made contemporaneously with the arrest or as soon thereafter as is reasonably practicable.
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RULE 12.5. Search of Premises: Permissible circumstances, Time and Scope.

(a) If at the time of the arrest:
(i) the accused is in or on premises all or part of which he is apparently entitled to occupy; and
(ii) in view of the circumstances the officer has reason to believe that such premises or part thereof contain things which are:
(A) subject to seizure; and
(B) connected with the offense for which the arrest is made; and
(C) likely to be removed or destroyed before a search warrant can be obtained and served;

the arresting officer may search such premises or part thereof for such things, and seize any things subject to seizure.
(b) Search of premises pursuant to subsection (a) shall only be made contemporaneously with the arrest, and search of building interiors shall only be made consequent upon an entry into the building made in order to effect an arrest therein. In determining the necessity for and scope of the search to be undertaken, the officer shall take into account, among other things, the nature of the offense for which the arrest is made, the behavior of the individual arrested and others on the premises, the size and other characteristics of the things to be searched for, and whether or not any such things are observed while making the arrest.

RULE 12.6. Custodial Taking of Property Pursuant to Arrest, Vehicles.

(a) Things not subject to seizure which are found in the course of a search of the person of an accused may be taken from his possession if reasonably necessary for custodial purposes. Documents or other records may be read or otherwise examined only to the extent necessary for such purposes, including identity checking and ensuring the physical well-being of the person arrested. Disposition of things so taken shall be made in accordance with Rule 15 hereof.
(b) A vehicle impounded in consequence of an arrest, or retained in official custody for other good cause, may be searched at such times and to such extent as is reasonably necessary for safekeeping of the vehicle and its contents.

RULE 13. SEARCH AND SEIZURE PURSUANT TO WARRANT

RULE 13.1. Issuance of Search Warrant.
(a) A search warrant may be issued only by a judicial officer.
(b) The application for a search warrant shall describe with particularity the persons or places to be searched and the persons or things to be seized, and shall be supported by one (1) or more affidavits or recorded testimony under oath before a judicial officer particularly setting forth the facts and circumstances tending to show that such persons or things are in the places, or the things are in possession of the person, to be searched. If an affidavit or testimony is based in whole or in part on hearsay, the affiant or witness shall set forth particular facts bearing on the informant's reliability and shall disclose, as far as practicable, the means by which the information was obtained. An affidavit or testimony is sufficient if it describes circumstances establishing reasonable cause to believe that things subject to seizure will be found in a particular place. Failure of the affidavit or testimony to establish the veracity and bases of knowledge of persons providing information to the affiant shall not require that the application be denied, if the affidavit or testimony viewed as a whole, provides a substantial basis for a finding of reasonable cause to believe that things subject to seizure will be found in a particular place.
(c) An application for a search warrant and the affidavit in support of the search warrant may be transmitted to the issuing judicial officer by facsimile or by other electronic means. Recorded testimony in support of a search warrant may be received by telephone or other electronic means provided the issuing judicial officer first administers an oath by telephone or other electronic means to the person testifying in support of the issuance of the warrant. After signing a search warrant, the judicial officer issuing the warrant may transmit a copy of the warrant by facsimile or

other electronic means to the applicant for the warrant. The original signed search warrant shall be retained by the judicial officer issuing the warrant and shall be filed with the record of the proceeding as provided in Rule 13.4(c).
(d) Before acting on the application, the judicial officer may examine on oath the affiants or witnesses, and the applicant and any witnesses he may produce, and may himself call such witnesses as he deems necessary to a decision. He shall make and keep a fair written summary of the proceedings and the testimony taken before him, except that if sworn testimony alone is offered in support of the application, such testimony shall be recorded pursuant to subsection (b) hereof.
(e) If the judicial officer finds that the application meets the requirements of this rule and that, on the basis of the proceedings before him, there is reasonable cause to believe that the search will discover persons or things specified in the application and subject to seizure, he shall issue a search warrant based on his finding and in accordance with the requirements of this rule. If he does not so find, the judicial officer shall deny the application.
(f) The proceedings upon application for a search warrant shall be conducted with such secrecy as the issuing judicial officer deems appropriate to the circumstances.

RULE 13.2. Contents of Search Warrant.

(a) A search warrant shall be dated, issued in duplicate, and shall be addressed to any officer.
(b) The warrant shall state, or describe with particularity:
(i) the identity of the issuing judicial officer and the date and place where application for the warrant was made;
(ii) the judicial officer's finding of reasonable cause for issuance of the warrant;
(iii) the identity of the person to be searched, and the location and designation of the places to be searched;
(iv) the persons or things constituting the object of the search and authorized to be seized; and
(v) the period of time, not to exceed five (5) days after execution of the warrant, within which the warrant is to be returned to the issuing judicial officer.
(c) Except as hereafter provided, the search warrant shall provide that it be executed between the hours of six a.m. and eight p.m., and within a reasonable time, not to exceed sixty (60) days. Upon a finding by the issuing judicial officer of reasonable cause to believe that:
(i) the place to be searched is difficult of speedy access; or
(ii) the objects to be seized are in danger of imminent removal; or
(iii) the warrant can only be safely or successfully executed at nighttime or under circumstances the occurrence of which is difficult to predict with accuracy;

the issuing judicial officer may, by appropriate provision in the warrant, authorize its execution at any time, day or night, and within a reasonable time not to exceed sixty (60) days from the date of issuance.
(d) If the warrant authorizes the seizure of documents other than lottery tickets, policy slips, and other nontestimonial documents used as instrumentalities of crime, the warrant shall require that it be executed in accordance with the provisions of Rule 13.5 and may, in the discretion of the issuing judicial officer, direct that any files or other collections of documents, among which the documents to be seized are reasonably believed to be located, shall be impounded under appropriate protection where found.

RULE 13.3. Execution of a Search Warrant.

(a) A search warrant may be executed by any officer. The officer charged with its execution may be accompanied by such other officers or persons as may be reasonably necessary for the successful execution of the warrant with all practicable safety.
(b) Prior to entering a dwelling to execute a search warrant, the executing officer shall make known the officer's presence and authority for entering the dwelling and shall wait a period of time that is reasonable under the circumstances before forcing entry into the dwelling. The officer may force entry into a dwelling without prior announcement if the officer reasonably suspects that making known the officer's presence would, under the circumstances, be dangerous or futile or that it would inhibit the effective investigation of the crime by, for example, allowing the destruction of evidence. For purposes of this rule, a “dwelling” means a vehicle, building, or other structure (i) where any person lives or (ii) which is customarily used for overnight accommodation of persons whether or not a person is actually present. Each unit of a structure divided into separately occupied units is itself a dwelling.
(c) In the course of any search or seizure pursuant to the warrant, the executing officer shall give a copy of the warrant to the person to be searched or the person in apparent control of the premises to be searched. The copy shall be furnished before undertaking the search or seizure unless the officer has reasonable cause to believe that such action would endanger the successful execution of the warrant with all practicable safety, in which case he shall, as soon as is practicable, state his authority and purpose and furnish a copy of the warrant. If the premises are unoccupied by anyone in apparent and responsible control, the officer shall leave a copy of the warrant suitably affixed to the premises.
(d) The scope of search shall be only such as is authorized by the warrant and is reasonably necessary to discover the persons or things specified therein. Upon discovery of the persons or things so specified, the officer shall take possession or custody of them and search no further under authority of the warrant. If in the course of such search, the officer discovers things not specified in the warrant which he reasonably believes to be subject to seizure, he may also take possession of the things so discovered.
(e) Upon completion of the search, the officer shall make and deliver a receipt fairly describing the things seized to the person from whose possession they are taken or the person in apparent control of the premises from which they are taken. If practicable, the list shall be prepared in the presence of the person to whom the receipt is to be delivered. If the premises are unoccupied by anyone in apparent and responsible control, the executing officer shall leave the receipt suitably affixed to the premises.
(f) The executing officer, and other officers accompanying and assisting him, may use such degree of force, short of deadly force, against persons, or to effect an entry or to open containers as is reasonably necessary for the successful

execution of the search warrant with all practicable safety. The use of deadly force in the execution of a search warrant, other than in self-defense or defense of others, is justifiable only if the executing officer reasonably believes that there is a substantial risk that the persons or things to be seized will suffer, cause, or be used to cause death or serious bodily harm if their seizure is delayed, and that the force employed creates no unnecessary risk of injury to other persons.

RULE 13.4. Return of a Search Warrant.

(a) If a search warrant is not executed, the officer shall return the warrant to the issuing judicial officer within a reasonable time, not to exceed 60 days from the date of issuance, together with a report of the reasons why it was not executed. If the issuing judicial officer is unavailable, the warrant may be returned to any judicial officer of a circuit or district court within the county in which the warrant was issued. Upon its return, an unexecuted warrant and report shall be filed with the clerk and be publically accessible unless the court for good cause based upon reasonably specific facts orders them to be closed or sealed. The affidavit or sworn testimony on application shall not be publically accessible.
(b) An officer who has executed a search warrant or, if such officer is unavailable, another officer acting in his behalf, shall, as soon as possible and not later than the date specified in the warrant, return the warrant to the issuing judicial officer together with a verified report of the facts and circumstances of execution, including an inventory of things seized. If the issuing judicial officer is unavailable, the warrant may be returned to any judicial officer of a circuit or district court within the county in which the warrant was issued.
(c) The judicial officer to whom an executed warrant is returned shall cause the warrant, report, inventory of things seized, and affidavit or sworn testimony on application to be filed with the clerk, and they shall be publically accessible unless the court for good cause based upon reasonably specific facts orders that any of them should be closed or sealed.
(d) If the judicial officer to whom an executed warrant is returned does not have jurisdiction to try the offense in respect to which the warrant was issued or the offense apparently disclosed by the things seized, he or she may transmit copies of the affidavit or sworn testimony on application, warrant, inventory, return, report, and related papers to an appropriate court having jurisdiction to try the offense disclosed, but the issuing judicial officer's clerk shall keep a copy in the clerk's file.
(e) Affidavits or sworn testimony on application, warrants, inventories, returns, reports, and related papers shall be filed with the clerk of the issuing judicial officer in the warrant docket as described in Administrative Order Number 2 or 18.
(f) Administrative Order Number 19 governs public access to affidavits or sworn testimony on application, warrants, inventories, returns, reports, and related papers subject to the provisions of this rule (*see* section (VII)(A)(3); *see* section (VIII) for obtaining access to documents excluded from public access). Remote electronic access to the warrant docket by the general public, however, shall be governed by and subject to the policies or requirement of the court.

RULE 13.5. Execution and Return of Warrants for Documents.

(a) If the warrant authorizes documentary seizure, the executing officer shall endeavor by all appropriate means to search for and identify the documents to be seized without examining the contents of documents not covered by the warrant.
(b) If the documents to be seized cannot be searched for or identified without examining the contents of other documents, or if they constitute items or entries in account books, diaries, or other documents containing matter not specified in the warrant, the executing officer shall not examine the documents but shall either impound them under appropriate protection where found, or seal and remove them for safekeeping.
(c) An executing officer who has impounded or removed documents pursuant to subsection (b) of this rule shall, as promptly as practicable, report the fact and circumstances of the impounding or removal to the issuing judicial officer. As soon thereafter as the interests of justice permit, and upon due and reasonable notice to all interested persons, a hearing shall be held before the issuing judicial officer or a judicial officer contemplated by Rule 13.4(d), at which the person from whose possession or control the documents were taken, and any other person asserting any right or interest in the documents, may appear, in person or by counsel, and move either for the return of the documents or for specification of such conditions and limitations on the further search for the documents to be seized as may be appropriate to prevent unnecessary or unreasonable invasion of privacy. If the motion for the return of the documents is granted, in whole or in part, the documents covered by the granting order shall forthwith be returned or released from impoundment. If the motion is not granted, the search shall proceed under such conditions and limitations as the order shall prescribe, and at the conclusion of the search all documents other than those covered by the warrant, or otherwise subject to seizure, shall be returned or released from impoundment.
(d) Documents seized shall thereafter be handled and disposed of in accordance with the other provisions of this rule and Rules 15 and 16 hereof. No statements or testimony given in support of a motion made pursuant to this rule shall thereafter be received in evidence against the witness in any subsequent proceeding, other than for purposes of impeachment or in a prosecution for perjury or contempt in the giving of such statements or testimony.

RULE 13.6. Issuance and Execution of Warrants for Illegally Possessed Pictures and Literature.

If a warrant issued under this rule shall provide for the seizure of tangible instruments of expression, including but not limited to moving or still pictures, recordings, books, or other literature, the warrant shall authorize the seizure only of such instruments or copies thereof as are reasonably necessary for evidentiary use in a proceeding to determine whether the content of such instruments is constitutionally protected. If the effect of seizing such instruments or copies

thereof is to stop or substantially impede their showing or distribution, the warrant shall provide that the possessor of such instruments be given a reasonable opportunity to furnish duplicate copies for seizure, or that he may retain possession of them and must display them during an adversary proceeding or at such times and places, including trial, as the court having jurisdiction over the matter may direct.

RULE 14. VEHICULAR, EMERGENCY AND OTHER SEARCHES AND SEIZURES

RULE 14.1. Vehicular Searches.

(a) An officer who has reasonable cause to believe that a moving or readily movable vehicle is or contains things subject to seizure may, without a search warrant, stop, detain, and search the vehicle and may seize things subject to seizure discovered in the course of the search where the vehicle is:
(i) on a public way or waters or other area open to the public;
(ii) in a private area unlawfully entered by the vehicle; or
(iii) in a private area lawfully entered by the vehicle, provided that exigent circumstances require immediate detention, search, and seizure to prevent destruction or removal of the things subject to seizure.
(b) If the officer does not find the things subject to seizure by his search of the vehicle, and if:
(i) the things subject to seizure are of such a size and nature that they could be concealed on the person; and
(ii) the officer has reason to suspect that one (1) or more of the occupants of the vehicle may have the things subject to seizure so concealed;

the officer may search the suspected occupants; provided that this subsection shall not apply to individuals traveling as passengers in a vehicle operating as a common carrier.
(c) This rule shall not be construed to limit the authority of an officer under Rules 2 and 3 hereof.

RULE 14.2. Search of Open Lands.

An officer may, without a search warrant, search open lands and seize things which he reasonably believes subject to seizure.

Rule 14.3. Emergency searches.

An officer who has reasonable cause to believe that premises or a vehicle contain:
(a) individuals in imminent danger of death or serious bodily harm; or
(b) things imminently likely to burn, explode, or otherwise cause death, serious bodily harm, or substantial destruction of property; or
(c) things subject to seizure which will cause or be used to cause death or serious bodily harm if their seizure is delayed;

may, without a search warrant, enter and search such premises and vehicles, and the persons therein, to the extent reasonably necessary for the prevention of such death, bodily harm, or destruction.

RULE 14.4. Seizure Independent of Search.

An officer who, in the course of otherwise lawful activity, observes the nature and location of things which he reasonably believes to be subject to seizure, may seize such things.

SHERIFF'S GENERAL ORDERS OR POLICIES RELATED TO FEDERALLY PROTECTED RIGHTS

All sheriffs departments should adopt polices related to federally protected rights.

It is the opinion of the AAC Chief Legal Counsel, Mark Whitmore, that all sheriffs in Arkansas should adopt formal written policies that relate to federally protected rights. Indeed, any newly elected Sheriff or Sheriff lacking such policies is advised to discharge this paramount responsibility.

A set of policies entitled Sheriff's General Orders has been developed by Mike Rainwater, Attorney at Law, to assist many Sheriffs in the State of Arkansas to adopt polices that direct law enforcement officers in accordance with federally protected rights. To date Mr. Rainwater has developed twelve such General Orders, entitled Sheriff's General Order No. 1 through Sheriff's General Order No. 12. Any newly elected Sheriff or Sheriff lacking such policies should review Mr. Rainwater's Sheriff's General Order No. 1 through Sheriff's General Order No. 12 in their entirety at their convenience in consultation with Mr. Rainwater, AAC General Counsel, or their own legal representation.

Listed below are the subtitles and general topics of the Sheriff's General Order No. 1 through Sheriff's General Order No. 12. Again, the information provided below does NOT constitute Sheriff's General Order No. 1 through Sheriff's General Order No. 12 in their entirety. This listing is intended to demonstrate the necessity and prudence of Sheriffs to adopt policies in accordance with federally protected rights.

Sheriff's General Order No. 1 is subtitled: "Preservation of the Orderly Pursuit of Happiness by Free Persons". Sheriff's General Order No. 1 generally relates to the following legal concepts: The law enforcement powers of the Sheriff and deputies shall be used for maintaining order, preserving security and keeping the peace. Individuals have the right to the enjoyment of life, liberty and property. Those federally protected rights should not be abridged as a breach of peace by law enforcement unless their conduct actually disturbs the peace or creates a security breach in violation of the law.

Sheriff's General Order No. 2 is subtitled: '"Official Policy" includes Constitution and Laws'. Sheriff's General Order No. 2 generally relates to the following legal concepts: A Sheriff's department should make it official policy that all use of governmental power or authority in conformity with the limitations imposed by the constitution and laws of the United States and of the State of Arkansas. Sheriff's General Order No.2 further addresses specifically by reference those

provisions of law constraining the use of governmental power or authority such as the Civil Rights Acts of the U.S. and State of Arkansas, the Arkansas Rules of Criminal Procedure, the Arkansas Criminal Code, the 14th Amendment, 4th Amendment, Due Process & Equal Protection Clauses and other laws such as, the Family Medical Leave Act, Fair Labor Standards Act, etc.

Sheriff's General Order No. 3 is subtitled: "The written protocol of the sheriff's department shall include the prescribed order of control authority". Sheriff's General Order No. 3 generally relates to the following legal concepts: The Arkansas Rules of Criminal Procedure incorporate the limitations imposed on sheriffs and their deputies by the Constitution and therefore set forth the procedure to be used by sheriffs and their deputies. General Orders set forth the overall policies for operation of the sheriff's department. Post Orders are specific written commands given for the performance of a particular function or task assigned to a particular post of operation. Policy and Procedures Manual sets forth the normal routine to be followed by the department. Training and Judgment requires officer to act in accordance with written protocol, but as well shall use his or her training and judgment as needed to act with objective reasonableness (with respect to search and seizure, including any use of force) and without deliberate indifference (in discharge of any duty to protect a person in custody or in a special relationship that imposes an affirmative duty to protect). Operating Guidelines for Law Enforcement Functions operates to require that in the event a search or seizure matter arises (including any use of force) for which there is no written general order, no post order, no policy or procedure directly on point, then the CJI Model Law Enforcement Policy shall be the operating Guideline for that law enforcement activity of the Sheriff's department. Likewise, in the event a duty-to-protect matter arises for which there is no written general order, no post order, no policy or procedure directly on point, then the CJI Model Detention Facilities Policy and Procedures Manual (which incorporates the Arkansas Jail Standards) shall be the Operating Guideline for that detention activity of the Sheriff's department.

Sheriff's General Order No. 4 is subtitled: "4th Amendment, Use of Force, and Objective Reasonableness Required". Sheriff's General Order No. 4 generally relates to the following legal concepts: All force by a Sheriff's department must be objectively reasonable in light of the facts and circumstances confronting the officer without regard to the intent or underlying motivation of the officer. Objective reasonableness requires that a reasonable officer on the scene under the circumstances, as if "standing in the officers' shoes". Emergency situations will allow for split-second decisions and the test will be was the decision reasonable under the emergency situation. *Graham v. Connor*, 490 U.S. 386 (1989) held that the "reasonableness" of a particular use of force "must be judged from the perspective of a reasonable officer on the scene". Each officer is entitled to make split-second decisions in an emergency that is not inconsistent with his training and written protocol.

Sheriff's General Order No. 5 is subtitled: "4th Amendment, deadly force, violence prevention". Sheriff's General Order No. 5 generally relates to the following legal concepts: Use of deadly force by a law enforcement officer should be limited to the following: to effect an arrest (or prevent an escape after arrest) of a person whom the officer reasonably believes: has committed a felony; and the felon either had used deadly force in the commission of the felony or would use deadly force against the officer if not immediately apprehended *and* the felon can not otherwise be apprehended. Also, an officer can use deadly force to defend himself or a third person from what he reasonably believes to be the imminent use of deadly force. Ark. Code Ann. §5-2-610(b)(1) has been declared unconstitutional because it unconstitutionally permits the use of deadly physical force to prevent the escape of a non-violent fleeing felon. Only violent fleeing felons may be subjected to the use of deadly physical force to prevent their escape.

Sheriff's General Order No. 6 is subtitled: "Warrantless arrests and reasonable cause to believe required". Sheriff's General Order No. 6 generally relates to the following legal concepts: A Sheriff and his deputies may arrest a person for a felony without a warrant for arrest, only if, the officer has reasonable cause to believe that the person has engaged in *conduct* that that is a felony. A Sheriff and his deputies may arrest a person for a misdemeanor without a warrant for arrest only if, the person engages in *conduct* that constitutes a misdemeanor in the officer's presence. A Sheriff and his deputies may arrest a person for a traffic violation without a warrant for arrest only if, the officer has reasonable cause to believe that the person has engaged in *conduct* that that is a traffic offense involving: death or physical injury to a person, damage to property or a DWI.

Sheriff's General Order No. 7 is subtitled: "Pre-arrest Contacts, Reasonable Suspicion Required". Sheriff's General Order No. 7 generally relates to the following legal concepts: The Arkansas Rules of Criminal Procedure are in accord with the Constitution and require a reasonable suspicion that an offense has been committed to interfere with a persons liberty or detention without an arrest. Sheriff's and deputies may request a person to volunteer information or cooperation. If reasonably necessary to verify the identity of a person or to determine the lawfulness of a person's conduct, officers may stop and detain persons whom the officer reasonably believes is committing, has committed, or is about to commit a felony or misdemeanor involving danger of forcible injury to persons or appropriation or damage to property. The officer must be acting in the performance of his duty and be lawfully present at the subject location. The officer must advise the person detained of the officer's identity and the reason for detention. The duration of the stop must be reasonable and not exceed 15 minutes. Thereafter, the person must be released or arrested and charged with an offense. Arkansas Rules of Criminal Procedure, Rules 3.1 and 3.2. "Reasonable Suspicion" means a suspicion that is based on facts or circumstances which do not by themselves give rise to probable cause for arrest, but which give rise to more than bare suspicion that an offense has been or is being committed.

Sheriff's General Order No. 8 is subtitled: "Warrantless Searches, Particularized Belief and Objective Basis Required". Sheriff's General Order No. 8 generally relates to the following legal concepts: The Arkansas Rules of Criminal Procedure, Rules 10.1 through 16.2 set forth the rules for different types of searches, such as search pursuant to arrest and strip searches, etc. An officer making an arrest without a warrant may conduct a search of the person or property of the accused to: protect the officer, the accused and others; to prevent escape; to furnish appropriate custodial care; to obtain evidence in furtherance of the arrest or to seize contraband, weapons, or fruits of the crime. A strip search of an arrestee must be based upon a particular and objective basis that the arrestee is concealing a weapon or contraband. *Donny Ringo v. City of Pine Bluff*, USDC PB-C-88-49.

Sheriff's General Order No. 9 is subtitled: "14th Amendment, Punishment of Detainees Prohibited". Sheriff's General Order No. 9 generally relates to the following legal concepts: A pre-trial detainee may not be subjected to any punishment. *Hamilton v. Love*, 328 F. supp. 1182 (E.D. Ark. 1971). No employee of a Sheriff's department shall act in any manner that is deliberately indifferent to the protection and safety need of a jail detainee. *Estelle v. Gamble*, 429 v. U.S. 97 (1976). A sheriff may insure security and order in the jail as legitimate objectives.

Sheriff's General Order No. 10 is subtitled: "14th Amendment, Substantive Due Process". Sheriff's General Order No. 10 generally relates to the following legal concepts: In accord with the 14th Amendment, Substantive Due Process Clause, the action of a Sheriff's department must be non-arbitrary and rationally related to the effectuation of legitimate governmental objectives. A deprivation of life interest, liberty interest or property interest must be rationally related to keeping the peace, maintaining order, or preserving security.

Sheriff's General Order No. 11 is subtitled: "14th Amendment, Equal Protection, Differences in Treatment". Sheriff's General Order No. 11 generally relates to the following legal concepts: In accord with the 14th Amendment, Equal Protection Clause, the action of a Sheriff's department must treat persons similarly situated in a substantially similar manner. There must be a rational basis for treating similarly situated persons in a substantially different manner. Stops, arrests, or searches based on race, ethnicity, religion or national origin are prohibited. Act 1207 of 2003 embodies this legal principle and prohibits unlawful racial profiling, but provides for exceptions in accord with the 14th Amendment.

Sheriff's General Order No. 12 is subtitled: "14th Amendment, Procedural Due Process, Citizen Complaint Hearing Process". Sheriff's General Order No. 12 generally relates to the following legal concepts: In accord with the Procedural Due Process Clause of the 14th Amendment, notice and an opportunity for a hearing are required before final governmental decision to deprive a person of life interest, liberty interest or property interest. However, the procedure required varies with the importance of the interest involved. Reasonable grounds to believe the reasons given for deprivation may be sufficient. The Arkansas Rules of Criminal Procedure set forth the notice and procedures required for various law enforcement activities. When circumstances are not addressed by the Arkansas Rules of Criminal Procedure, a hearing process should be provided via citizens compliant. *Cleveland v. Loudermill*, 105 S. Ct. 1487 (1985) and Act 1207 of 2003.

The foregoing is merely the subtitles and general topics of the Sheriff's General Order No. 1 through Sheriff's General Order No. 12. The foregoing does not represent the General Orders in their entirety or the format appropriate for adoption by a sheriff. Again, any newly elected Sheriff or Sheriff lacking policies related to federally protected rights should review Mr. Rainwater's Sheriff's General Order No. 1 through Sheriff's General Order No. 12 in their entirety at their convenience in consultation with Mr. Rainwater, AAC General Counsel, or their own legal representation.

RACIAL PROFILING PROHIBITED

12-12-1401. Definition.

(a) For purposes of this subchapter, "racial profiling" means the practice of a law enforcement officer's relying to any degree on race, ethnicity, national origin, or religion in selecting which individuals to subject to routine investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial routine investigatory activity.

(b) "Racial profiling" does not include reliance on the criteria in combination with other identifying factors when the law enforcement officer is seeking to apprehend a specific suspect whose race, ethnicity, or national origin is part of the description of the suspect and the description is thought to be reliable and locally relevant.

12-12-1402. Prohibition on racial profiling.

(a) No member of the Department of Arkansas State Police, the Arkansas Highway Police Division of the Arkansas Department of Transportation, a sheriff's department, or a municipal police department, constable, or any other law enforcement officer of this state shall engage in racial profiling.

(b) The statements of policy and definitions contained in this sub-chapter shall not be construed or interpreted to be contrary to the Arkansas Rules of Criminal Procedure or the United States Constitution or the Arkansas Constitution.

12-12-1403. Policies.

(a) The Department of Arkansas State Police, the Arkansas Highway Police Division of the Arkansas Department of Transportation, all sheriffs' departments, municipal police departments, constables, and all other law enforcement agencies of this state shall adopt a written policy that:

(1) Prohibits racial profiling as defined in § 12-12-1401;

(2) Requires that law enforcement officers have reasonable suspicion prior to a stop, arrest, or detention;

(3) Defines reasonable suspicion to ensure that individuals are stopped for valid reasons and that race, ethnicity, national origin, or religion is not the basis for stops for violations for which non-group members would not be stopped;

(4) Requires law enforcement officers to identify themselves by full name and jurisdiction and state the reason for the stop and when possible present written identification;

(5) Provides for a systematic review process by supervising personnel within a department or law enforcement agency for investigating allegations of racial profiling to determine whether any officers of the law enforcement agency have a pattern of stopping or searching persons, and if the review reveals a pattern, requires an investigation to determine whether a trend is present indicating that an officer may be using race, ethnicity, national origin, or religion as a basis for investigating other violations of criminal law;

(6) When a supervisor or other reviewer has detected a pattern of racial profiling, provides timely assistance, remediation, or discipline for individual law enforcement officers who have been found to be profiling by race, ethnicity, national origin, or religion;

(7) Ensures that supervisors will not retaliate against officers who report racial profiling by others; and

(8) Provides standards for the use of in-car audio and visual equipment, including the duration for which the recordings are preserved.

(b)(1) Each law enforcement agency shall include a copy of the law enforcement agency's policy in the annual report that the law enforcement agency submits to the Division of Legislative Audit.

(2) The Division of Legislative Audit shall submit to the Attorney General the name of any law enforcement agency that fails to comply with subdivision (b)(1) of this section, and the Attorney General shall take such action as may be necessary to enforce this section.

(3) The Division of Legislative Audit shall forward to the Attorney General a copy of each law enforcement agency's policy received by the Division of Legislative Audit. The Attorney General shall review each law enforcement agency's policy to ensure that the law enforcement agency's policy meets the standards required by law.

(c)(1) Each law enforcement agency may promote public awareness of the law enforcement agency's efforts to comply with the mandates of this section.

(2) In addition, each law enforcement agency shall make available for public inspection a copy of the law enforcement agency's policy.

12-12-1404. Training.

(a) Each law enforcement agency shall provide annual training to all officers that:

(1) Emphasizes the prohibition against racial profiling;

(2) Ensures that operating procedures adequately implement the prohibition against racial profiling and that the law enforcement agency's law enforcement personnel have copies of, understand, and follow the operating procedures; and

(3) Includes foreign language instruction, if possible, to ensure adequate communication with residents of a community.

(b) The course or courses of instruction and the guidelines shall stress understanding and respect for racial, ethnic, national, religious, and cultural differences and development of effective and appropriate methods of carrying out law enforcement duties.

(c)(1) The Arkansas Commission on Law Enforcement Standards and Training shall adopt an initial training module concerning diversity and racial sensitivity for recruits and officers.

(2) The commission shall also adopt a training module for biennial recertification for all recruits and officers who have completed the initial training module.

(d)(1) The commission shall promulgate rules that will set significant standards for all training required in this section.

(2) The commission may make additions, amendments, changes, or alterations to the rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(3) The commission may review and recommend changes to the racial profiling policy of any law enforcement agency.

(4) Upon request, the racial profiling policy of any law enforcement agency shall be made available to the commission for the purpose described in subdivision (d)(3) of this section.

(5) The commission may establish a toll-free hotline and an email address to receive complaints concerning racial profiling.

ACT 1207 of 2003 - POLICY PROHIBITING UNLAWFUL PROFILING

Mandate Written Unlawful Profiling Policy: Act 1207 of 2003 mandates that all Sheriff's offices adopt a written policy by January 1, 2004, that: (1) prohibits unlawful profiling as defined by Act 1207 (racial, ethnic, national origin, or religious profiling); (2) requires law enforcement officers to have reasonable suspicion prior to a stop, arrest, or detention; (3) defines reasonable suspicion to ensure that individuals are stopped for valid reasons and that stopping on the basis of racial, ethnic, national origin, or religious is not a valid reason for a stop; and (4) requires law enforcement officers to identify themselves by name and by jurisdiction, requires the officers to state the reason for the stop, and when possible to give the reasons for the stop.

Unlawful Profiling Defined: Act 1207 prohibits any member of sheriff's department or any law enforcement officer in the state to engage in {unlawful} profiling and the detention of any individual on the basis of any non-criminal factor or combination of non-criminal factors. "Racial

Profiling" is defined by Act 1207 as the practice of law enforcement relying, to any degree, on race, ethnicity, national origin, or religion in selecting which individuals to subject to routine investigatory activities. Racial profiling does not include reliance on the criteria in a combination with other identifying factors when the law enforcement officer is seeking to apprehend a specific suspect whose race, ethnicity, national origin is part of the description of the suspect, and the description is thought to be reliable and locally relevant.

Mandates Systematic Review Process: Act 1207 mandates that by January 1, 2004, all sheriff's offices require: (1). Supervisors to systematically review all officers to determine if any have a pattern of stopping or searching persons; (2) if pattern is revealed, must determine if a trend indicates that an officer may be using race, ethnicity, national origin, or religion as basis for stops or searches; 930 if pattern is detected of racial profiling, the law enforcement officer there should be timely assistance, remediation, or discipline for officers found to be unlawfully profiling; (4) must ensure no retaliation to officers reporting unlawful profiling; and (5) standards for use of in car audio and visual equipment to investigate unlawful profiling and retention of those records.

Annual Training Required: Section 4 of Act 1207 requires all sheriff's departments to provide annual training beginning on January 1, 2004 to all officers that "emphasizes the prohibition against all {unlawful} profiling…and stresses development of effective and appropriate methods of carrying out law enforcement duties.

Chapter 5 - DUTIES OF THE SHERIFF AS AN OFFICER OF THE COURT

The sheriff is the chief enforcement officer of the circuit and chancery court and is charged with (1) the service and execution of warrants and civil process, (2) bailiff duties which include the opening and attendance of each term of court, and (3) transporting of inmates. This chapter is divided into 3 sections for purposes of understanding and discussion. They are:

Introduction

The information compiled in this section of the manual is designed to assist the sheriff or his deputies in the proper service and executions of warrants and civil process. It is based upon various Arkansas Statutes and Arkansas Court Rules.

CIVIL PROCESS OUTLINE

I. Responsibility for Service

Service of summons shall be made by (1) a sheriff of the county where the service is to be made, or his or her deputy, unless the sheriff is a party to the action; (2) any person appointed pursuant to Administrative Order No. ____ for the purpose of serving summons by either the court in which the action is filed or a court in the county in which services is to be made; (3) any person authorized to serve process under the law of the place outside this state where service is made; or (4) in the event of service by mail or commercial delivery company pursuant to subdivision (d)(8) of this rule, by the plaintiff or an attorney of record for the plaintiff.

II. Commencement of Action

A civil action is commenced by filing a complaint with the clerk of the proper court who shall note therein the date and precise time of filing. (Rules of Civil Procedure - Rule 3)

Commencement of Action. - A civil action is started by filing a complaint in the office of the clerk of the proper court and causing a summons to be issued and placed in the hands of the sheriff for service. If two summonses are issued in different courts involving the same matter, both may be served properly, but that summons which reaches the hands of the sheriff first, shall become the primary summons and its court shall have jurisdiction. The sheriff shall endorse on each summons the exact date and time of day when he received the summons. (ACA 16-58-101) The Following Information is Located in the Rules of Civil Procedure - Rule 4.

III. Summons

(a) Issuance. Upon the filing of the complaint, the clerk shall forthwith issue a summons and cause it to be delivered for service to a person authorized by this rule to serve process.

(b) Form. The summons shall be styled in the name of the court and shall be dated and signed by the clerk; be under the seal of the court; contain the names of the parties;

be directed to the defendant; state the name and address of the plaintiff's attorney, if any, otherwise the address of the plaintiff; and the time within which these rules require the defendant to appear, file a pleading, and defend and shall notify him that in case of his failure to do so, judgment by default may be entered against him for the relief demanded in the complaint.

(c) By Whom Served. Service of summons shall be made by (1) a sheriff of the county where the service is to be made, or his or her deputy, unless the sheriff is a party to the action; (2) any person appointed pursuant to Administrative Order No. 20 for the purpose of serving summons by either the court in which the action is filed or a court in the county in which service is to be made; (3) any person authorized to serve process under the law of the place outside this state where service is made; or (4) in the event of service by mail or commercial delivery company pursuant to subdivision (d)(8) of this rule, by the plaintiff or an attorney of record for the plaintiff.

(d) Personal Service Inside the State. A copy of the summons and complaint shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary. Service shall be made upon any person designated by statute to receive service or as follows:

(1) Upon an individual, other than an infant by delivering a copy of the summons and complaint to him personally, or if he refuses to receive it, by offering a copy thereof to him, or by leaving a copy thereof at his dwelling house or usual place of abode with some person residing therein who is at least 14 years of age, or by delivering a copy thereof to an agent authorized by appointment or by law to receive service of summons.

(2) When the defendant is under the age of 14 years, service must be upon a parent or guardian having the care and control of the infant, or upon any other person having the care and control of the infant and with whom the infant lives. When the infant is at least 14 years of age, service shall be upon him.

(3) Where the defendant is a person for whom a plenary, limited or temporary guardian has been appointed, the service must be upon the individual and the guardian. If the person for whom the guardian has been appointed is confined in a public or private institution for the treatment of the mentally ill, service shall be upon the superintendent or administrator of such institution and upon the guardian.

(4) Where the defendant is incarcerated in any jail, penitentiary, or other correctional facility in this state, service must be upon the administrator of the institution, who shall deliver a copy of the summons and complaint to the defendant. A copy of the summons and complaint shall also be sent to the defendant by first class mail and marked as "legal mail" and, unless the court otherwise directs, to the defendant's spouse, if any.

(5) Upon a domestic or foreign corporation or upon a partnership, limited liability company, or any unincorporated association subject to suit under a common name, by delivering a copy of the summons and complaint to an officer, partner other than a limited partner, managing or general agent, or any agent authorized by appointment or by law to receive service of summons.

(6) Upon the United States or any officer or agency thereof, by service upon any person and in such manner as is authorized by the Federal Rules of Civil Procedure or by other federal law.

(7) Upon a state or municipal corporation or other governmental organization or agency thereof, subject to suit, by delivering a copy of the summons and complaint to the chief executive officer thereof, or other person designated by appointment or by statute to receive such service, or upon the Attorney General of the state if such service is accompanied by an affidavit of a party or his attorney that such officer or designated person is unknown or cannot be located.

(8)(A)(i) Service of a summons and complaint upon a defendant of any class referred to in paragraphs (1) through (5), and (7) of this subdivision (d) may be made by the plaintiff or an attorney of record for the plaintiff by any form of mail addressed to the person to be served with a return receipt requested and delivery restricted to the addressee or the agent of the addressee. The addressee must be a natural person specified by name, and the agent of the addressee must be authorized in accordance with U.S. Postal Service regulations. However, service on the registered agent of a corporation or other organization may be made by certified mail with a return receipt requested.

(ii) Service pursuant to this paragraph (A) shall not be the basis for the entry of a default or judgment by default unless the record contains a return receipt signed by the addressee or the agent of the addressee or a returned envelope, postal document or affidavit by a postal employee reciting or showing refusal of the process by the addressee. If delivery of mailed process is refused, the plaintiff or attorney making such service, promptly upon receipt of notice of such refusal, shall mail to the defendant by first class mail a copy of the summons and complaint and a notice that despite such refusal the case will proceed and that judgment by default may be rendered against him unless he appears to defend the suit. Any such default or judgment by default may be set aside pursuant to Rule 55(c) if the addressee demonstrates to the court that the return receipt was signed or delivery was refused by someone other than the addressee or the agent of the addressee.

(B) Alternatively, service of a summons and complaint upon a defendant of any class referred to in paragraphs (1)-(5) and (7) of this subdivision of this rule may be made by the plaintiff by mailing a copy of the summons and the complaint by first-class mail, postage prepaid, to the person to be served, together with two copies of a notice and acknowledgement conforming substantially to a form adopted by the Supreme Court and a return envelope, postage prepaid, addressed to the sender. If no acknowledgement of service is received by the sender within twenty days after the date of mailing, service of such summons and complaint shall be made pursuant to subdivision (c)(1)-(3) of this rule in the manner prescribed by subdivisions (d)(1)-(5) and (d)(7). Unless good cause is shown for not doing so the court shall order the payment of the costs of personal service by the person served if such person does not complete and return within twenty days after mailing, the notice and acknowledgement of receipt of summons. The notice and acknowledgement of receipt of summons and complaint shall be executed under oath or affirmation.

(C) Service of a summons and complaint upon a defendant of any class referred to in paragraphs (1) through (5) and (7) of this subdivision may also be made by the plaintiff or an attorney of record for the plaintiff using a commercial delivery company that (i) maintains permanent records of actual delivery, and (ii) has been approved by the circuit court in which the action is filed or in the county where service is to be made. The summons and complaint must be delivered to the defendant or an agent authorized to receive service of process on behalf of the defendant. The signature of the defendant or agent must be obtained. Service pursuant to this paragraph shall not be the basis for a judgment by default unless the record reflects actual delivery on and the signature of the defendant or agent, or an affidavit by an employee of an approved commercial delivery company reciting or showing refusal of the process by the defendant or agent. If delivery of process is refused, the plaintiff or attorney making such service, promptly upon receipt of notice of such refusal, shall mail to the defendant by first class mail a copy of the summons and complaint and a notice that despite such refusal the case will proceed and that judgment by default may be rendered against the defendant unless he or she appears to defend the suit. A judgment by default may be set aside pursuant to Rule 55(c) if the court finds that someone other than the defendant or agent signed the receipt or refused the delivery or that the commercial delivery company had not been approved as required by this subdivision.

(e) **Other Services**. Whenever the law of this state authorizes service outside this state, the service, when reasonably calculated to give actual notice, may be made:

(1) By personal delivery in the same manner prescribed for service within this state;

(2) In any manner prescribed by the law of the place in which service is made in that place in an action in any of its courts of general jurisdiction;

(3) By mail as provided in subdivision (d)(8) of this rule;

(4) As directed by a foreign authority in response to a letter rotatory or pursuant to the provisions of any treaty or convention pertaining to the service of a document in a foreign country;

(5) As directed by the court.

(f) **Service By Warning Order**. (1) If it appears by the affidavit of a party seeking judgment or his or her attorney that, after diligent inquiry, the identity or whereabouts of a defendant remains unknown, or if a party seeks a judgment that affects or may affect the rights of persons who are not and who need not be subject personally to the jurisdiction of the court, service shall be by warning order issued by the clerk. This subdivision shall not apply to actions against unknown tortfeasors.

(2) The warning order shall state the caption of the pleadings; include, if applicable, a description of the property or other res to be affected by the judgment; and warn the defendant or interested person to appear within 30 days from the date of first publication of the warning order or face entry of judgment by default or be otherwise barred from asserting his or her interest. The party seeking judgment shall cause the warning order to be published weekly for two consecutive weeks in a newspaper having general circulation in the county where the action is filed and to be mailed, with a copy of the complaint, to the defendant or interested person at his or her last known address by any form of mail with delivery restricted to the addressee or the agent of the addressee.

(3) If the party seeking judgment has been granted leave to proceed as an indigent without prepayment of costs, the clerk shall conspicuously post the warning order for a continuous period of 30 days at the courthouse or courthouses of the county wherein the action is filed. The party seeking judgment shall cause the warning order to be mailed, with a copy of the complaint, to the defendant or interested person as provided in paragraph (2). Newspaper publication of the warning order is not required.

(4) No judgment by default shall be taken pursuant to this subdivision unless the party seeking the judgment or his or her attorney has filed with the court an affidavit stating that 30 days have elapsed since the warning order was first published as provided in paragraph (2) or posted at the courthouse pursuant to paragraph (3). If a defendant or other interested person is known to the party seeking judgment or to his or her attorney, the affidavit shall also state that 30 days have elapsed since a letter enclosing a copy of the warning order and the complaint was mailed to the defendant or other interested person as provided in this subdivision.

(g) **Proof of Service**. The person effecting service shall make proof thereof to the clerk within the time during which the person served must respond to the summons. If service is made by a sheriff or his deputy, proof may be made by executing a certificate of service or return contained in the same document as the summons. If service is made by a person other than a sheriff or his deputy, the person shall make affidavit thereof, and if service has been by mail or commercial delivery company, shall attach to the affidavit a return receipt, envelope, affidavit or other writing required by Rule 4(d)(8). Proof of service in a foreign country, if effected pursuant to the provisions of a treaty or convention as provided in Rule 4(e)(4), shall be made in accordance with the applicable treaty or convention.

(h) **Amendment**. At any time in its discretion and upon such terms as it deems just, the court may allow any summons or proof of service thereof to be amended unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the summons is issued.

(i) **Time Limit for Service**. If service of the summons is not made upon a defendant within 120 days after the filing of the complaint, the action shall be dismissed as to that defendant without prejudice upon motion or upon the court's initiative. If a motion to extend is made within 120 days of the filing of the suit, the time for service may be extended by the court upon a showing of good cause. The order granting any such extension, however, must be entered within 30 days after the motion to extend is filed, or by the end of the 120-day period, whichever date is later. If service is made by mail pursuant to this rule, service shall be deemed to have been made for the purpose of this provision as of the date on which the process was accepted or refused. This paragraph shall not apply to service in a foreign country pursuant to Rule 4(e) or to complaints filed against unknown tortfeasors.

(j) **Service of Other Writs and Papers**. Whenever any rule or statute requires service upon any person, firm,

corporation or other entity of notices, writs, or papers other than a summons and complaint, including without limitation writs of garnishment, such notices, writs or papers may be served in the manner prescribed in this rule for service of a summons and complaint. Provided, however, any writ, notice or paper requiring direct seizure of property, such as a writ of assistance, writ of execution, or order of delivery shall be made as otherwise provided by law.

IV Service and Filing of Pleadings & Other Papers
(Rule 5 - Rules of Civil Procedure)

(a) Service: When Required. Except as otherwise provided in these rules, every pleading and every other paper, including all written communications with the court, filed subsequent to the complaint, except one which may be heard ex parte, shall be served upon each of the parties, unless the court orders otherwise because of numerous parties. No service need be made upon parties in default for failure to appear, except that pleadings asserting new or additional claims for relief against them shall be served in the manner provided for service of summons in Rule 4. Any pleading asserting new or additional claims for relief against any party who has appeared shall be served in accordance with subdivision (b) of this rule. In an action begun by seizure of property, in which no person need be or is named as defendant, any service required to be made prior to the filing of an answer, claim or appearance shall be made upon the person having custody or possession of the property at the time of its seizure.

(b) Service: How Made. (1) Whenever under this rule or any statute service is required or permitted to be made upon a party represented by an attorney, the service shall be upon the attorney, except that service shall be upon the party if the court so orders or the action is one in which a final judgment has been entered and the court has continuing jurisdiction.

(2) Except as provided in paragraph (3) of this subdivision, service upon the attorney or upon the party shall be made by delivering a copy to him or by sending it to him by regular mail or commercial delivery company at his last known address or, if no address is known, by leaving it with the clerk of the court. Delivery of a copy for purposes of this paragraph means handing it to the attorney or to the party; by leaving it at his office with his clerk or other person in charge thereof; or, if the office is closed or the person has no office, leaving it at his dwelling house or usual place of abode with some person residing therein who is at least 14 years of age. Service by mail is presumptively complete upon mailing, and service by commercial delivery company is presumptively complete upon depositing the papers with the company. When service is permitted upon an attorney, such service may be affected by electronic transmission, provided that the attorney being served has facilities within his office to receive and reproduce verbatim electronic transmissions. Service by a commercial delivery company shall not be valid unless the company: (A) maintains permanent records of actual delivery, and (B) has been approved by the circuit court in which the action is filed or in the county where service is to be made.

(3) If a final judgment or decree has been entered and the court has continuing jurisdiction, service upon a party by mail or commercial delivery company shall comply with the requirements of Rule 4(d)(8)(A) and (C), respectively.

(c) Filing. (1) All papers after the complaint required to be served upon a party or his attorney shall be filed with the clerk of the court either before service or within a reasonable time thereafter. The clerk shall note the date and time of filing thereon. However, proposed findings of fact, proposed conclusions of law, trial briefs, proposed jury instructions, and responses thereto may but need not be filed unless ordered by the court. Depositions, interrogatories, requests for production or inspection, and answers and responses thereto shall not be filed unless ordered by the court. When such discovery documents are relevant to a motion, they or the relevant portions thereof shall be submitted with the motion and attached as an exhibit unless such documents have already been filed. The clerk shall not refuse to accept for filing any paper presented for that purpose solely because it is not presented in the proper form. In counties where the county clerk serves as the ex officio clerk of any division of the circuit court, the filing requirement for any pleading, paper, order, judgment, decree, or notice of appeal shall be satisfied when the document is filed with either the circuit clerk or the county clerk.

(2) Confidential information as defined and described in Sections III(A)(11) and VII(A) of Administrative Order 19 shall not be included as part of a case record unless the confidential information is necessary and relevant to the case. Section III(A)(2) of the Administrative Order defines a case record as any document, information, data, or other item created, collected, received, or maintained by a court, court agency or clerk of court in connection with a judicial proceeding. If including confidential information in a case record is necessary and relevant to the case:

(A) The confidential information shall be redacted from the case record to which public access is granted pursuant to Section IV(A) of Administrative Order 19. The point in the case record at which the redaction is made shall be indicated by striking through the redacted material with an opaque black mark or by inserting the following in brackets: [Information Redacted] or [I.R.]. The requirement that the redaction be indicated in case records shall not apply to court records rendered confidential by expungement or other legal authority that expressly prohibits disclosure of the existence of a record; and

(B) An un-redacted copy of the case record with the confidential information included shall be filed with the court under seal. The un-redacted copy of the case record shall be retained by the court as part of the court record of the case. It is the responsibility of the attorney for a party represented by counsel and the responsibility of a party unrepresented by counsel to ensure that confidential information is omitted or redacted from all case records that they submit to a court. It is the responsibility of the court, court agency, or clerk of court to ensure that confidential information is omitted or redacted from all case records, including orders, judgments, and decrees, that they create.

(3) If the clerk's office has a facsimile machine, the clerk shall accept facsimile transmissions of any paper filed under this rule and may charge a fee of $1.00 per page. Any signature appearing on a facsimile copy shall be presumed authentic until proven otherwise. The clerk shall

stamp or otherwise mark a facsimile copy as filed on the date and time that it is received on the clerk's facsimile machine during the regular hours of the clerk's office or, if received outside those hours, at the time the office opens on the next business day.

(d) **Filing With the Judge.** The judge may permit papers or pleadings to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk. If the judge permits filing by facsimile transmission, the provisions of subdivision (c)(2) of this rule shall apply.

(e) **Proof of Service.** Every pleading, paper or other document required by this rule to be served upon a party or his attorney, shall contain a statement by the party or attorney filing same that a copy thereof has been served in accordance with this rule, stating therein the date and method of service and, if by mail, the name and address of each person served.

V. Determination of Status of Property Subject to Execution

ACA 16-66-119. Immunity of law enforcement officers. Any sheriff or other law enforcement officer acting reasonably, in good faith, and not in violation of clearly established law, and exercising due care while serving and executing writs of execution shall have immunity from suit and civil liability and shall not be liable for any civil damages for acts performed in the official performance of his duties.

A. Property Subject to Execution (ACA 16-66-201): The following described property shall be liable to be seized and sold under the execution upon any judgment, order, or decree of a court of record:

1. All goods and chattels not exempted in this subchapter;

2. All improvements on the public lands of the United States;

3. The rights and shares in the stock of any bank, insurance company, or other incorporation.

4. Any current gold or silver coin, which shall be returned as so much money collected, without exposing the current gold or silver coin to sale;

5. Any bill or other evidence of debt issued by any monied corporation of this state or any other state, belonging to any person against whom an execution shall be issued, at the time the writ is delivered to the officer to be executed, or at any time thereafter;

6. All real estate, whether patented or not, of which the defendant, or any person for his use, was seized in law or equity on the day of rendition of the judgment, order, or decree, upon which the execution is issued, or at any time thereafter.

A.C.A. § 16-66-118 (a) Each officer to whom any execution is delivered shall be liable and bound to pay the whole amount of money specified in or endorsed on the execution and directed to be levied if he or she willfully:

(1) Neglects or refuses to execute or levy the execution according to law;

(2) Takes in execution any property, or if any property is delivered to him or her by any person against whom an execution may have been issued, and the officer neglects or refuses to make a sale of the property so delivered according to law;

(3) Does not return the execution on or before the return day specified therein;

(4) Makes a false return of the execution; or

(5) After having taken the defendant's body in execution, permits him or her to escape, and does not have his body according to the command of the writ.

A. Assignment or Transfer of Debt - Whoever, either directly or indirectly, assigns or transfers any claims for debts against a citizen of this state for the purpose of having the claims for debts collected by proceedings in attachment, garnishment, or other process out of the wages or personal earnings of the debtor in courts outside of this state when the creditor, debtor, person, or corporation owing the money intended to be reached by the proceedings in attachment is each within the jurisdiction of the courts of this state shall be guilty of a violation and upon conviction shall be fined in any sum not less than ten dollars ($10.00) nor more than fifty dollars ($50.00). (ACA 16-66-216)

B. Encumbered Property:

(a) Any property, real, personal, or mixed, may be subjected to seizure under execution, garnishment, attachment, or other process, even though the property is subject to mortgage, deed of trust, vendor's lien, conditional sales contract, chattel mortgage, or other lien. Any officer authorized by law to execute process, may seize, levy upon, or otherwise take possession of any property, whether real, personal, or mixed, even though there may be a lien against the property, and he or she may sell the property as provided by law.

(b) (1) Any prior lienholder or lienholders of any nature whatsoever shall be made a party or parties to the process, by the plaintiff or his or her attorney serving notice upon the lienholder or lienholders. This notice shall be served by any officer authorized to execute process. In the event the lienholder or lienholders are nonresidents of the State of Arkansas, then the plaintiff or his or her attorney shall give notice of the seizure of the property by registered mail to the lienholder or lienholders at their last known address. The return receipt of the lienholder or lienholders, or the affidavit of the plaintiff or his or her attorney, of the compliance with this subsection, shall be filed in the office of the clerk of the court from which the writ of garnishment, attachment, or other process is issued.

(2) Any sale made under the provisions of this section shall be made subject to the lienholder's or lienholders' indebtedness.

(c) This section shall not be construed to deprive any person or persons of their homestead or personal exemptions as provided by law. (ACA 16-66-203)

C. Homestead exemption from legal process: The homestead of any resident of this State who is married or the head of a family shall not be subject to levy or sale. Sale may be had to satisfy specific liens, improvement liens, taxes or for administrators, guardians, receivers, attorneys for money due them for their action in a fiduciary capacity. (ACA 16-66-210 as amended)

D. Levy not discharged on giving bond: The post of a bond under 16-66-304 does not discharge the levy upon the property claimed. The officer may leave the property in the possession of the person who had it pending action on the bond and may, in the meantime, proceed with the execution

against any other property of the defendant. (ACA 16-66-304) Officer to return Execution: When the officer receives a certified copy of an order to cease execution on order of sale, he shall return the same immediately. (ACA 16-66-301)

E. Selection of property to be sold - Levy: The defendant in an execution may select what property, real or personal, shall be sold if he gives the officer a list of the property sufficient to satisfy the execution. The officer shall levy upon that property and no other if it is sufficient in his opinion to satisfy the execution. If it is not sufficient then additional property may be taken. (ACA 16- 66-401)

Levy on Shares or Stock in Corporations: Whenever an officer levies upon the shares or stock in a corporation he shall do so by leaving a copy of the writ with the president, secretary or cashier or other officer and a certificate by the officer that he levies upon and takes the rights or shares to satisfy such execution. (ACA 16-66-404)

Corporate officer to furnish statement of shares and encumbrances: When an execution is used to levy upon any shares or stock in an incorporation, the cashier, secretary of chief clerk shall furnish the officer a certificate stating the number of rights or shares the defendant has. (ACA 16-66-404)

Levy on Real Estate - Certificate of levy filed with Recorder: The Sheriff shall, upon levying upon any real estate under an execution or attachment, file with the recorder of deeds of the county a certificate of the seizure together with a correct and full description of the real estate. The recorder shall index and record the same as if it were a lis pendens. (ACA 16-66-402)

F. Right of levying officer to require indemnifying bond:

(a) (1) If an officer who levies, or is required to levy, an execution upon personal property, doubts whether it is subject to execution, he or she may give to the plaintiff therein, or his or her agent or attorney, notice that an indemnifying bond is required.

(2) Bond may, thereupon, be given by or for the plaintiff, with one (1) or more sufficient sureties to be approved by the officer, to the effect that the obligors therein will indemnify him or her against the damage he may sustain in consequence of the seizure or sale of the property, will pay to any claimant thereof the damages he or she may sustain in consequence of the seizure or sale, and will warrant to any purchaser of the property such estate or interest therein as is sold.

(3) Thereupon, the officer shall proceed to subject the property to the execution and shall return the indemnifying bond to the circuit court of the county from which the execution issued.

(b) If the bond mentioned in subsection (a) of this section is not given, the officer or she may refuse to levy the execution or, if it had been levied, and the bond is not given in a reasonable time after it is required by the officer, he or she may restore the property to the person from whose possession it was taken, and the levy shall stand discharged.

(c) (1) The claimant or purchaser of any property, for the seizure or sale of which an indemnifying bond has been taken and returned by the officer, shall be barred of any action against the officer levying upon the property if the surety was good when it was taken.

(2) The claimant or purchaser may maintain an action upon the bond and recover such damages as he or she may be entitled to.

(d) When property for the sale of which the officer is indemnified sells for more than enough to satisfy the execution under which it was taken, the surplus shall be paid into the court to which the indemnifying bond is directed to be returned. That court may order such disposition or payment of the money to be made temporarily or absolutely as may be proper in respect to the rights of the parties interested.

(e) No officer shall require any agent of the State of Arkansas, or any political subdivision thereof, to post an indemnifying bond prior to an execution on personal property. (ACA 16-66-405)

G. Notice of sale of real & personal property.

(a) The time and place of sale of real property upon execution, by virtue of a judgment, or order of sale, must be advertised for at least twenty (20) days, next before the day of sale by posting printed advertisements at the courthouse door and five (5) other public places in the county in which the sale is to be made, one (1) of which is to be upon the premises to be sold, and by publishing the advertisement in a weekly newspaper, if there is one, in the county for at least two insertions before the day of sale.

(b)(1) The time and place of sale of personal property shall be advertised by posting written or printed notices at three (3) of the most public places in the vicinity of the place of sale.

(2) No goods and chattels or other personal effects, seized and taken by virtue of any execution, shall be sold until the officer making the sale shall have given at least ten (10) days' notice of the time and place of sale and the property to be sold. (ACA 16-66-408)

Officers not to bid at sale:

No officer having the execution for service or any other deputy or any person acting for them shall purchase any property at any sale made under such execution. Any purchases so made will be voided. Court case: 555, Inc. v Barlow, 3 Ark. App. 139,623 S.W. 2d 843 (1981)

The sheriff's failure to return an execution within the required time may be excusable, in an action against him by a judgment creditor, where failure was due at least in part to judgment creditor. (ACA 16-66-415). However, the sheriff shall be liable for willful failure to perform duties under writs of execution. (ACA 16-65-202 – Act 1107 of 2003) (a) All executions shall be returnable within ninety (90) days from their date. (ACA 16-66-416)

Exemption from posting fidelity, surety, or performance bonds in certain transactions:

Except when the dollar amount of responsibility assumed exceeds the net capital and surplus, no state national bank, state or national savings and loan doing business in the state shall be required to furnish fidelity, surety or performance bonds in the following transactions:

1. Garnishments
2. Replevins
3. Foreclosures
4. Forcible entry and detainer

The institutions mentioned above must furnish, upon

request, each party a copy of its latest financial statement. (ACA 23-32-305)

VI. Performance Under Order of Delivery or Attachment.

A. Order of Delivery

The order of delivery for property shall be delivered to the sheriff. It shall state the parties' names, the court in which the action is taken, direct the sheriff to take the property, description of the property and its value is in the plaintiff's affidavit. The order shall have a return date and shall summons the defendant to appear in court and answer to the plaintiff. If the plaintiff shall file an additional affidavit, that he believes that the property has been concealed, removed, or disposed of with the intent to keep it from the plaintiff, the clerk shall insert a clause that the sheriff shall arrest the defendant so that he may appear on the return day of the order and answer to the court. The order shall be returnable as an order of arrest. (ACA 18-60-811)

Bond.

The order shall not be carried out by the sheriff until a bond has been made by the plaintiff to the defendant, wherein the plaintiff shall return the property and pay such sums as the court may direct, not to exceed double the value of the property and costs. (ACA 18-60-812)

Bond in action against officer:

When the legal action is brought against an officer to recover possession of property taken under execution, against a person other than the plaintiff, the bond provided for in the last section shall be to the effect that the plaintiff will prosecute the action and abide by the courts decision. The plaintiff shall pay to the defendant all money as the court may direct that were adjudged in the action; not to exceed double the value of the property and costs.(ACA 18-60-812)

Removal or concealment of property - Arrest of defendant:

If the property described in the order has been removed or concealed so that the officer cannot find it, the officer, when the order contains an arrest order, shall arrest the defendant and hold him in custody until he executes bond or be discharged by the court. (ACA 18-60-819)

Issuance of attachment on holiday or Sunday:

An order of attachment for the delivery of property may be executed on any holiday except Sunday, and on Sunday when the officer believes, or there is an affidavit from the plaintiff that the property is about to be concealed or removed, or that service cannot be made after such holiday. (ACA 16-58-106)

B. Forcible Entry and Detainer. (ACA 18-60-301, et seq)

Clarification of the rights and enforcement of parties claiming a cause of action by reason of forcible entry and detainer and for unlawful detainer of real property and those persons against whom such actions are brought. No person shall enter into or upon any lands, tenements or other possessions, and detain or hold the same, but where such entry is allowed by law, and then only in a peaceable manner.

If any person shall: Enter into or upon any lands, tenements, or other possessions and detain the same without right or claim to title. Enter by breaking open the doors, window, or other parts of the house, whether anyone is home or not. By threatening to kill, maim or beat any party in possession. By words or actions that would naturally cause fear or apprehension of danger. By putting out of doors or by carrying away the goods of the party in possession. By entering peaceably and then turning out by force or frightening by threats or other circumstances of terror, the party in possession. In such cases every person so offending shall be considered guilty of a forcible entry and detained within the Act. (ACA 18-60-303)

Any person who shall hold, without right any lands, tenements or possessions after the time such properties were let to him: After demand is made to him in writing to surrender possession thereof by the person or his agent or attorney, having the right to possession. Or shall fail or refuse to pay the rent therefore when due. And after 3 days notice to vacate, and the written demand for the possession by the person entitled to possession, then shall be considered guilty of an unlawful detainer under this Act. (ACA 18-60-303)

The preceding two sections of this Act shall extend to and comprehend all estates, whether freehold or less than freehold. The aforesaid forcible entries and detainees are to come before the circuit court of any county in which such offenses are committed.

C. Writ of Possession (ACA 18-60-307)

(a) When any person to whom any cause of action shall accrue under this subchapter shall file in the office of the clerk of the court a complaint signed by him or her, his or her agent or attorney, specifying the lands, tenements, or other possessions so forcibly entered and detained, or unlawfully detained over, and by whom and when done, and shall also file the affidavit of himself or herself or some other credible person for him or her, stating that the plaintiff is lawfully entitled to the possession of the lands, tenements, or other possessions mentioned in the complaint and that the defendant forcibly entered upon and detained them or unlawfully detains them, after lawful demand therefor made in the manner described in this subchapter, the clerk of the court shall thereupon issue a summons upon the complaint. The summons shall be in customary form directed to the sheriff of the county, or process server, in which the cause of action is filed, with direction for service thereof on the named defendants. In addition, he or she shall issue and direct the sheriff or process server to serve upon the named defendants a notice in the following form:

"NOTICE OF INTENTION TO ISSUE WRIT OF POSSESSION You are hereby notified that the attached complaint in the above styled cause claims that you have been guilty of [forcible entry and detainer] [unlawful detainer] (the inapplicable

phrase shall be deleted from the notice) and seeks to have a writ of possession directing the sheriff to deliver possession of the lands, tenements, or other possessions described in the complaint delivered to the plaintiff. If, within five (5) days, excluding Sundays and legal holidays, from the date of service of this notice, you have not filed in the office of the clerk of the court a written objection to the claims made against you by the plaintiff for possession of the property described in the complaint, then the plaintiff shall be entitled to a writ of possession that shall forthwith issue from this office directed to the sheriff of this county and ordering him or her to remove you from possession of the property described in the complaint and to place the plaintiff in possession thereof. If you should file with the clerk of the court a written objection to the complaint of the plaintiff and the allegations for immediate possession of the property described in the complaint within five (5) days, excluding Sundays and legal holidays, from the date of service of this notice, a hearing will be scheduled by the court to determine whether or not the writ of possession should issue as sought by the plaintiff.

Clerk of Circuit/District Court"

(b) If, within five (5) days, excluding Sundays and legal holidays, following service of this summons, complaint, and notice seeking a writ of possession against the defendants named therein, the defendant or defendants have not filed a written objection to the claim for possession made by the plaintiff in his or her complaint, the clerk of the court shall immediately issue a writ of possession directed to the sheriff commanding him or her to cause the possession of the property described in the complaint to be delivered to the plaintiff without delay, which the sheriff shall thereupon execute in the manner described in § 18-60-310.

(c) If a written objection to the claim of the plaintiff for a writ of possession shall be filed by the defendant or defendants within five (5) days from the date of service of the notice, summons, and complaint as provided for in this section, the plaintiff shall obtain a date for the hearing of the plaintiff's demand for possession of the property described in the complaint at any time thereafter when the matter may be heard by the court and shall give notice of the date, time, and place of the hearing by certified mail, postage prepaid, either to the defendant or to his or her or their counsel of record.

(d)(1)(A) If a hearing is required to be held on the demand of the plaintiff for an immediate writ of possession, the plaintiff shall present evidence sufficient to make a prima facie case of entitlement to possession of the property described in the complaint. The defendant or defendants shall be entitled to present evidence in rebuttal thereof.

(B)(i) If the court decides upon all the evidence that the plaintiff is likely to succeed on the merits at a full hearing, then the court shall order the clerk forthwith to issue a writ of possession to the sheriff to place the plaintiff in possession of the property described in the complaint, subject to the provisions of subsection (e) of this section.

(ii) No such action by the court shall be final adjudication of the parties' rights in the action.

(2) A plaintiff demanding an immediate writ of possession who is a housing authority and who claims in its complaint that the defendant or defendants are being asked to surrender possession as a result of the defendant or defendants having been convicted of a criminal violation of the Uniform Controlled Substances Act, § 5-64-101 et seq., shall be entitled to receive an expedited hearing before the court within ten (10) days of the filing of the objection by the defendant or defendants.

(e) If the defendant desires to retain possession of the property, the court may upon motion and good cause shown allow the retention of the premises only if the defendant provides, within five (5) days of issuance of the writ of possession, adequate security as determined by the court in any event not less than the amount of any delinquent rent and rent to accrue while the defendant is allowed to retain possession of the premises.

18-60-310. Execution of writ of possession.

(a) Upon receipt of a writ of possession from the clerk of the court, the sheriff shall immediately proceed to execute the writ in the specific manner described in this section and, if necessary, ultimately by ejecting from the property described in the writ the defendant or defendants and any other person or persons who shall have received or entered into the possession of the property after the issuance of the writ, and thereupon notify the plaintiff that the property has been vacated by the defendant or defendants.

(b) Upon receipt of the writ, the sheriff shall notify the defendant of the issuance of the writ by delivering a copy thereof to the defendant or to any person authorized to receive summons in civil cases and in like manner. If within eight (8) hours of receipt of the writ of possession, the sheriff shall not find any such person at their normal place of residence, he may serve the writ of possession by placing a copy conspicuously upon the front door or other structure of the property described in the complaint, which shall have like effect as if delivered in person pursuant to the terms hereof.

(c)(1) If, at the expiration of twenty-four (24) hours from the service of the writ of possession in the manner indicated, the defendants or any or either of them shall be and remain in possession of the property or possession has not been returned to the plaintiff, the sheriff shall notify the plaintiff or his attorney of that fact and shall be provided with all labor and assistance required by him in removing the possessions and belongings of the defendants from the affected property to a place of storage in a public warehouse or in some other reasonable safe place of storage under the control of the plaintiff until a final determination by the court.

(2) If the determination is in favor of the defendant, then the possessions and belongings of the defendant shall be immediately restored to the defendant with the cost of storage assessed against the plaintiff.

(3) If the determination is in favor of the plaintiff, and it includes a monetary judgment for the plaintiff, then the court shall order the possessions and belongings of the defendant sold by the plaintiff in a commercially reasonable manner with the proceeds of the sale applied first to the cost of storage, second to any monetary judgment in favor of the plaintiff, and third any excess to be remitted to the defendant.

(d) In executing the writ of possession, the sheriff shall have the right forcibly to remove all locks or other barriers erected to prevent entry upon the premises in any

manner which he deems appropriate or convenient and, if necessary, physically to restrain the defendants from interfering with the removal of the defendants' property and possessions from the property described in he writ of possession.

(e) The plaintiff shall not be required to give any bond, unless ordered to do so by the court, as a condition to the execution of the writ by the sheriff.

(f) The sheriff shall return the writ at or before the return date of the writ and shall state in his return the manner in which he executed the writ and whether or not the properties described herein have been delivered to the plaintiff and, if not, the reason for his failure to do so. If in a trial in court the verdict is for the plaintiff the jury shall assess the amount to be recovered. When the court has rendered a decision in favor of the plaintiff and the property has not yet been delivered, a writ of possession may be issued at this time. If the court finds for the defendant the court shall determine the costs and damages and may issue a writ of restitution ordering the Sheriff to reinstate the defendant in the property. The defendant may introduce into court any evidence showing the damages he has suffered in being removed from the property and upon the court finding in his favor may have judgment and repossession of the property. (ACA 18-60-310)

Duty of Officer serving: It shall be the duty of any officer serving a notice to return the same to the party who delivered it to him. Failure to do so may be punished as disobedience of the court. (ACA 16-55-117)

Act 1004 of 2007 created an alternative procedure to eviction under the "Residential Landlord Tennant Act of 2007". Act 482 of 2009 amended the streamline process further. The Supreme Court is consigning rule changes to allow district court eviction.

VII. Attachments:
16-32-106. Summons of petit jurors.

(a) The persons whose names have been selected under § 16-32-105 shall be summoned to appear on a date set by the court to answer questions concerning their qualifications and unless excused or disqualified, to serve the required number of days or for the maximum period during the calendar year for which selected unless sooner discharged.

(b) Jurors shall be summoned by the court or by the sheriff, as the court directs, by:

(1) A notice dispatched by first-class mail;

(2) Notice given personally on the telephone; or

(3) Service of summons personally or by such other method as is permitted or prescribed by law.

(c)(1)(A) If a notice is dispatched by first-class mail, the prospective jurors shall be given a date certain to contact the sheriff or the court to confirm receipt of the notice.

(B) Not later than five (5) days before the prospective juror is to appear, the sheriff or the court shall contact the prospective juror if the prospective juror has failed to acknowledge receipt of the notice.

(C) The court shall have discretion to determine whether the sheriff or the court will be the prospective juror's primary contact.

(2) A notice dispatched by first-class mail shall be sent on a form approved by the Administrative Office of the Courts or it shall include the following language: "You are hereby notified that you have been chosen as a prospective juror. You must notify the sheriff [or the court] on or before . . . . . (date) . . . . . to confirm that you have received this notice. If you do not notify the sheriff [or the court] to confirm this notice, the sheriff [or the court] will contact you and there will be added cost. Please call the sheriff [or the court] at . . . . . (phone number) . . . . . ."

(d) Unless excused by the circuit judge, a juror who has been legally summoned and who shall fail to attend on any date when directed to do so may be fined in any sum not less than five dollars ($5.00) nor more than five hundred dollars ($500). However, nothing in this subsection shall be construed to limit the inherent power of the court to punish for contempt. All excuses granted by the circuit judge shall be noted in the jury book or the computer program described in § 16-32-103.

Bailiff Duties

The Sheriff or his/her designee serves as sheriff/bailiff of the courts in their respective county (ACA 16-10-122). It is the bailiff's duty to assist in maintaining order and decorum in the courtroom and to provide security and protection for jury proceedings and jury members.

Transporting Inmates to the Department of Corrections

(a)(1) All commitments to the Division of Correction shall be to the Division of Correction and not to a particular institution.
(2) Commitments may provide for judicial or administrative transfer to the Division of Community Correction.
(b)(1) The Director of the Division of Correction, in accordance with the rules and procedures promulgated by the Board of Corrections, shall transfer an inmate to the Division of Community Correction, pursuant to a judicial transfer, determine the administrative transfer of an inmate to the Division of Community Correction, or assign a newly committed inmate to an appropriate facility of the Division of Correction.
(2) The director may transfer an inmate from one (1) facility to another consistent with the commitment and in accordance with treatment, training, and security needs.
(3) Inmates may be transferred between the Division of Correction and the Division of Community Correction within the constraints of law applicable to judicial or administrative transfer, subject to the policies and rules established by the Board of Corrections and conditions set by the Parole Board.
(4) The Division of Correction shall retain legal custody of all inmates transferred to community correction unless altered by court order.
(c)(1) When a prisoner is committed to the Division of Correction, his or her commitment papers must include a report on the circumstances attending the offense, particularly such circumstances as tend to aggravate or extenuate the offense, which report shall be kept in the permanent file of such prisoner.
(2) The report shall be prepared by the prosecutor or deputy

prosecutor who represented the state in the proceeding against the prisoner. The report shall be approved by the sentencing judge.
(d)(1) A county sheriff, a deputy county sheriff, or a trained security contractor shall transport all inmates committed to the Division of Correction or the Division of Community Correction as described in this subsection, and the county sheriff is entitled to the fees provided by law.
(2) A county sheriff shall notify the director of the number of inmates in his or her charge who are under commitment to the Division of Correction, and upon request to the county sheriff by the director, the county sheriff, the deputy county sheriff, or the trained security contractor shall send for, take charge of, and safely transport the inmates to the nearest appropriate facility as determined by the Division of Correction or the Division of Community Correction.

(3) However, if the county sheriff determines that it would be in the best interest of an inmate and the public to immediately transport the inmate to the Division of Correction or the Division of Community Correction because of overcrowding or another issue, the county sheriff may notify the Division of Correction or the Division of Community Correction of the need for immediate transport and the Division of Correction or the Division of Community Correction shall consider the request in scheduling inmates for intake.
(e)(1) The director shall make and preserve a full and complete record of every inmate committed to the Division of Correction, along with a photograph of the inmate and data pertaining to his or her trial conviction and past history.
(2)(A) To protect the integrity of records described in subdivision (e)(1) of this section and to ensure their proper use, it is unlawful to permit inspection of or disclose information contained in records described in subdivision (e)(1) of this section or to copy or issue a copy of all or part of a record described in subdivision (e)(1) of this section except:
(i) As authorized by rule;
(ii) By order of a court of competent jurisdiction; or
(iii) Records posted on the Division of Correction's website as required by § 12-27-145.
(B) A rule under subdivision (e)(2)(A) of this section shall provide for adequate standards of security and confidentiality of records described in subdivision (e)(1) of this section.
(3) For those inmates committed to the Division of Correction and judicially or administratively transferred to the Division of Community Correction, the preparation of a record described in subdivision (e)(1) of this section may be delegated to the Division of Community Correction pursuant to policies applicable to records transmission adopted by the Board of Corrections.
(4) A rule under subdivision (e)(2)(A) of this section may authorize the disclosure of information contained in a record described in subdivision (e)(1) of this section for research purposes.
(5)(A)(i) Upon written request, an employee of the Bureau of Legislative Research acting on behalf of a member of the General Assembly may view all records described in subdivision (e)(1) of this section of a current or former inmate.
(ii) A request under subdivision (e)(5)(A)(i) of this section shall be made in good faith.
(B) A view of records under this subdivision (e)(5) by an employee may be performed only if the employee is assigned to one (1) or more of the following committees:
(i) Senate Committee on Judiciary;
(ii) House Committee on Judiciary; or
(iii) Charitable, Penal, and Correctional Institutions Subcommittee of the Legislative Council.
(C) The Division of Correction shall ensure that the employee authorized under subdivision (e)(5)(B) of this section to view records is provided access to the records.
(D) A record requested to be viewed under this subdivision (e)(5) is privileged and confidential and shall not be shown to any person not authorized to have access to the record under this section and shall not be used for any political purpose, including without limitation political advertising, fundraising, or campaigning. A.C.A. § 12-27-113

Introduction

This section of the manual is designed to inform sheriffs and deputies of the extradition process**.**

Extradition

A legal definition of extradition is "the surrender by one state or country to another of an individual accused or convicted of an offense outside its own territory and within the territorial jurisdiction of the other, which, being competent to try and punish him, demands the surrender".

Arkansas law, based on the Uniform Criminal Extradition Act, sets out the legal requirements for extradition in this state (Ark. Code. Ann. 16-94-101, 16-94-102, and 16-94-201 through 16-94-231). Since most states have adopted the act, the procedures for extradition from state to state tend to be quite similar. There are, however, some differences in procedure and required documentation.

The extradition of a person to Arkansas from another state is generally termed a "domestic" extradition. A request that Arkansas return a person to another state is likewise termed a "foreign" extradition.

A domestic extradition begins when an individual "wanted" in Arkansas is located in another state (asylum state). This usually occurs as the result of an N.C.I.C. "hit". The Arkansas sheriff named in the warrant is notified, the sheriff requests that the suspect be held, and a judge or magistrate in the asylum state issues a warrant.

The sheriff notifies his prosecuting attorney that the suspect has been located, and the Arkansas prosecutor prepares necessary documents to request extradition. The extradition request is sent to the Governor. If the documents are found to be in order, the Governor makes a written request to the governor of the asylum state that the subject be returned to Arkansas. This request designated the sheriff or his agents as the proper persons to take custody of the suspect and return him/ her to Arkansas if the extradition request is honored.

Under ACA 16-94-214 as amended in 1995, a procedure was established for a pre-signed waiver of extradition. ACA 16-94-214 now provides:

(a) The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged in

the courts of another state with a crime punishable by death or imprisonment for a term exceeding one (1) year; but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the last section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

(b) Notwithstanding any other law to the contrary, a law enforcement officer shall deliver a person in custody to the accredited agent or agents of a demanding state without the governor's warrant provided that:

(1) Such person is alleged to have broken the terms of his probation, parole, bail or any other release of the demanding state; and

(2) The law enforcement agency has received from the demanding state an authenticated copy of a prior waiver of extradition signed by such person as a term of his probation, parole, bail or any other release of the demanding state. The copy shall contain photographs, fingerprints or other evidence properly identifying such person as the person who signed the waiver.

When the documents are received in the asylum state, they are reviewed for legal sufficiency. If they are found to be in order, the governor of the asylum state will issue a Governor's Warrant ordering the return of the suspect to Arkansas. During this process the subject may, depending on the asylum state's laws, have a Governor's Hearing before the governor's extradition official to contest the extradition, and the suspect will also be entitled to petition the state's courts for a writ of habeas corpus.

If the Governor's Warrant remains valid, the designated authorities in Arkansas are notified to pick up the fugitive. Following return to Arkansas, the suspect is available for the regular criminal justice process in this state.

Foreign extraditions basically involve the same process in reverse. An Arkansas law enforcement officer having contact with an individual learns that this person is wanted in another state (demanding state), and the proper authority in that state is notified. Soon after arrest, the subject is taken before a judge to set bond, etc. The time varies, but usually between 30 and 90 days later, the Arkansas Governor's Office receives extradition documents from the demanding state's governor. These are referred to the Attorney General for review of legal sufficiency. If the documents are in order, a Governor's Warrant is issued. The subject can request and receive a Governor's Hearing before the Extradition Counsel, and can contest the extradition by filing a writ of habeas corpus in circuit court.

If the warrant remains in effect, the authorities in the demanding state are notified that the subject may be picked up and returned to that state.

For information concerning a specific case or general information about extradition, contact the Pardon and Extradition Counsel, Office of the Governor, State Capitol, Little Rock, Arkansas 72201.

Chapter 6—Bail Bonds

ARKANSAS

BAIL BOND

LAWS

2021

*Special thanks to the Arkansas Professional Bail Bondsman Licensing Board for providing this chapter

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5-54-120. Failure to appear.

(a) As used in this section, "pending charge" means a charge that results from an arrest or issuance of a citation or criminal summons, or after the filing of a criminal information or indictment and that has not been resolved by acquittal, conviction, dismissal, or nolle prosequi.

(b) A person commits the offense of failure to appear if he or she fails to appear without reasonable excuse subsequent to having been:

(1) Cited or summonsed as an accused; or

(2) Lawfully set at liberty upon condition that he or she appear at a specified time, place, and court.

(c) Failure to appear is a:

(1) Class C felony if the required appearance was in regard to a pending charge or disposition of a felony charge either before or after a determination of guilt of the felony charge;

(2) Class D felony if the required appearance was in regard to an order to appear issued before a revocation hearing under § 16-93-307 and the defendant was placed on probation or received a suspended sentence for a felony offense;

(3) Class A misdemeanor if the required appearance was in regard to a pending charge or disposition of a Class A misdemeanor charge either before or after a determination of guilt of the Class A misdemeanor charge;

(4) Class B misdemeanor if the required appearance was in regard to a pending charge or disposition of a Class B misdemeanor charge either before or after a determination of guilt of the Class B misdemeanor charge;

(5) Class B misdemeanor if the required appearance was in regard to a pending charge or disposition of a Class C misdemeanor charge either before or after a determination of guilt of the Class C misdemeanor charge;

(6) Unclassified misdemeanor with the same penalty as the unclassified misdemeanor in the pending charge or disposition if the required appearance was in regard to a pending charge or disposition of an unclassified misdemeanor either before or after a determination of guilt on the unclassified misdemeanor charge; and

(7) Class C misdemeanor if the required appearance was in regard to a pending charge or disposition of a violation either before or after a determination of guilt of the violation charge.

(d) This section does not apply to an order to appear imposed as a condition of suspension or probation under § 5-4-303.

HISTORY:

Acts of 1975, Act 280, § 2820; Acts of 1991, Act 916, § 1; Acts of 2011, Act 514, § 1, eff. July 27, 2011; Acts of 2011, Act 570, § 32, eff. July 27, 2011; Acts of 2013, Act 1193, § 1, eff. Aug. 16, 2013; Acts of 2015, Act 538, § 1, eff. July 22, 2015; Acts of 2015, Act 1155, § 9, eff. July 22, 2015; Acts of 2019, Act 322, § 1, eff. July 24, 2019.

5-71-208. Harassment.

(a) A person commits the offense of harassment if, with purpose to harass, annoy, or alarm another person, without good cause, he or she:

(1) Strikes, shoves, kicks, or otherwise touches a person, subjects that person to offensive physical contact or attempts or threatens to do so;

(2) In a public place, directs obscene language or makes an obscene gesture to or at another person in a manner likely to provoke a violent or disorderly response;

(3) Follows a person in or about a public place;

(4) In a public place repeatedly insults, taunts, or challenges another person in a manner likely to provoke a violent or disorderly response;

(5) Engages in conduct or repeatedly commits an act that alarms or seriously annoys another person and that serves no legitimate purpose; or

(6) Places a person under surveillance by remaining present outside that person's school, place of employment, vehicle, other place occupied by that person, or residence, other than the residence of the defendant, for no purpose other than to harass, alarm, or annoy.

(b) Harassment is a Class A misdemeanor.

(c) It is an affirmative defense to prosecution under this section if the actor is a law enforcement officer, licensed private investigator, attorney, process server, licensed bail bondsman, or a store detective acting within the reasonable scope of his or her duty while conducting surveillance on an official work assignment.

(d)(1) Upon pretrial release of the defendant, a judicial officer shall enter a no contact order in writing consistent with Rules 9.3 and 9.4 of the Arkansas Rules of Criminal Procedure and shall give notice to the defendant of penalties contained in Rule 9.5 of the Arkansas Rules of Criminal Procedure.

(2) This no contact order remains in effect during the pendency of any appeal of a conviction under this section.

(3) The judicial officer or prosecuting attorney shall provide a copy of this no contact order to the victim and arresting agency without unnecessary delay.

(e) If the judicial officer has reason to believe that mental disease or defect of the defendant will or has become an issue in the case, the judicial officer shall enter orders consistent with § 5-2-327 or § 5-2-328, or both.

HISTORY:

Acts of 1975, Act 280, § 2909; Acts of 1985, Act 711, § 1; Acts of 1993, Act 379, § 5, eff. March 8, 1993; Acts of 1993, Act 388, § 5, eff. March 8, 1993; Acts of 1995, Act 1302, § 3, eff. April 14, 1995; Acts of 2017, Act 472, § 20, eff. Aug. 1, 2017..

5-71-229. Stalking.

(a)(1) A person commits stalking in the first degree if he or she knowingly engages in a course of conduct that would place a reasonable person in the victim's position under emotional distress and in fear for his or her safety or a third person's safety, and the actor:

(A) Does so in contravention of an order of protection consistent with the Domestic Abuse Act of 1991, § 9-15-101 et seq., or a no contact order as set out in subdivision (a)(2)(A) of this section, protecting the same victim, or any other order issued by any court protecting the same victim;

(B) Has been convicted within the previous ten (10) years of:

(i) Stalking in the second degree;

(ii) Terroristic threatening, § 5-13-301, or terroristic act, § 5-13-310; or

(iii) Stalking or threats against another person's safety under the statutory provisions of any other state jurisdiction; or

(C) Is armed with a deadly weapon or represents by word or conduct that he or she is armed with a deadly weapon.

(2)(A) Upon pretrial release of the defendant, a judicial officer shall enter a no contact order in writing consistent with Rules 9.3 and 9.4 of the Arkansas Rules of Criminal Procedure and shall give notice to the defendant of penalties contained in Rule 9.5 of the Arkansas Rules of Criminal Procedure.

(B) The no contact order remains in effect during the pendency of any appeal of a conviction under this subsection.

(C) The judicial officer or prosecuting attorney shall provide a copy of the no contact order to the victim and the arresting law enforcement agency without unnecessary delay.

(D) If the judicial officer has reason to believe that mental disease or defect of the defendant will or has become an issue in the case, the judicial officer shall enter orders consistent with § 5-2-327 or § 5-2-328, or both.

(3) Stalking in the first degree is a Class B felony.

(b)(1) A person commits stalking in the second degree if he or she knowingly engages in a course of conduct that harasses another person and makes a terroristic threat with the purpose of placing that person in imminent fear of death or serious bodily injury or placing that person in imminent fear of the death or serious bodily injury of his or her immediate family.

(2)(A) Upon pretrial release of the defendant, a judicial officer shall enter a no contact order in writing consistent with Rules 9.3 and 9.4 of the Arkansas Rules of Criminal Procedure and shall give notice to the defendant of penalties contained in Rule 9.5 of the Arkansas Rules of Criminal Procedure.

(B) The no contact order remains in effect during the pendency of any appeal of a conviction under this subsection.

(C) The judicial officer or prosecuting attorney shall provide a copy of the no contact order to the victim and arresting law enforcement agency without unnecessary delay.

(D) If the judicial officer has reason to believe that mental disease or defect of the defendant will or has become an issue in the case, the judicial officer shall enter orders consistent with § 5-2-327 or § 5-2-328, or both.

(3) Stalking in the second degree is a Class C felony.

(c)(1) A person commits stalking in the third degree if he or she knowingly commits an act that would place a reasonable person in the victim's position under emotional distress and in fear for his or her safety or a third person's safety.

(2)(A) Upon pretrial release of the defendant, a judicial officer shall enter a no contact order in writing consistent with Rules 9.3 and 9.4 of the Arkansas Rules of Criminal Procedure and shall give notice to the defendant of penalties contained in Rule 9.5 of the Arkansas Rules of Criminal Procedure.

(B) The no contact order remains in effect during the pendency of any appeal of a conviction under this subsection.

(C) The judicial officer or prosecuting attorney shall provide a copy of the no contact order to the victim and arresting law enforcement agency without unnecessary delay.

(D) If the judicial officer has reason to believe that mental disease or defect of the defendant will or has become an issue in the case, the judicial officer shall enter orders consistent with § 5-2-327 or § 5-2-328, or both.

(3) Stalking in the third degree is a Class A misdemeanor.

(d) It is an affirmative defense to prosecution under this section if the actor is a law enforcement officer, licensed private investigator, attorney, process server, licensed bail bondsman, or a store detective acting within the reasonable scope of his or her duty while conducting surveillance on an official work assignment.

(e) It is not a defense to a prosecution under this section that the actor was not given actual notice by the victim that the actor's conduct was not wanted.

(f) As used in this section:

(1)(A) “Course of conduct” means a pattern of conduct composed of two (2) or more acts, separated by at least thirty-six (36) hours, but occurring within one (1) year, including without limitation an act in which the actor directly, indirectly, or through a third party by any action, method, device, or means follows, monitors, observes, places under surveillance, threatens, or communicates to or about a person or interferes with a person's property.

(B)(i) “Course of conduct” does not include constitutionally protected activity.

(ii) If the defendant claims that he or she was engaged in a constitutionally protected activity, the court shall determine the validity of that claim as a matter of law and, if found valid, shall exclude that activity from evidence;

(2)(A) “Emotional distress” means significant mental suffering or distress.

(B) “Emotional distress” does not require that the victim sought or received medical or other professional treatment or counseling; and

(3) “Harasses” means an act of harassment as prohibited by § 5-71-208.

HISTORY:

Acts of 1993, Act 379, §§ 1 to 3, eff. March 8, 1993; Acts of 1993, Act 388, §§ 1 to 3, eff. March 8, 1993; Acts of 1995, Act 1302, § 1, eff. April 14, 1995; Acts of 2007, Act 827, § 94, eff. July 31, 2007; Acts of 2013, Act 1014, § 1, eff. Aug. 16, 2013; Acts of 2017, Act 472, §§ 22 to 24, eff. Aug. 1, 2017; Acts of 2021, Act 1085, §§ 1, 2, eff. July 28, 2021..

14-52-111. Fees for bail or delivery bond.

A municipal police department in this state may charge and collect a fee of twenty dollars ($20.00) for taking and entering a bail or delivery bond.

HISTORY:

Acts 1997, No. 252, § 1; 2003, No. 1347, § 1 2013, No. 1281 §1.

16-19-408. [Repealed]

16-81-109. Bail.

(a)(1) When any sheriff or other law enforcement officer makes an arrest, he or she is authorized to take and to approve bail in the manner provided by law wherever he or she makes the arrest.

(2) If the offense charged is a misdemeanor, the person arrested may immediately give bail for appearing on a day to be named in the bail bond before the judge or magistrate who issued the warrant or before the court having jurisdiction to try the offense. The sheriff or other officer making the arrest may be authorized by the judge or magistrate issuing the warrant to take the bail by an endorsement made on the warrant to that effect.

(b)(1) If the defendant gives bail for his or her appearance before the judge or magistrate for an examination of the charge, as provided in subsection (a) of this section, the sheriff or officer taking the bail shall fix the day of the defendant's appearance.

(2) A deviation from the provisions of subdivision (b)(1) of this section shall not, however, render the bail bond invalid.

HISTORY:

Acts of 1871, Act 49, § 1; Acts of 1936, Initiated Act 3, § 19, Acts of 1937, p. 1384; Acts of 2005, Act 1994, § 268, eff. Aug. 12, 2005.

Formerly Crim. Code, §§ 25 to 27; C. & M. Dig., §§ 2896 to 2898; Pope's Dig., §§ 3712 to 3714, 3865; A.S.A. 1947, §§ 43-411, 43-418 to 43-420.

16-81-110. Return on the warrant.

(a)(1) The sheriff or officer who has executed a warrant of arrest shall make a written return on the warrant of the time and manner of executing it and deliver the warrant to the judge or magistrate before whom the defendant is brought.

(2) If bail is given as provided in § 16-81-109(a)(2), the officer shall deliver the warrant and bail bond to the judge or magistrate before whom, or to the clerk of the court in which, the defendant is bound by the bail bond to appear.

(b) If the arrest is made in a different county from that in which the offense is charged to have been committed and bail is given, the sheriff or officer may transmit the warrant and bail bond by mail to the person to whom by subsection (a) of this section he or she is required to deliver them.

HISTORY:

Acts of 2005, Act 1994, § 268, eff. Aug. 12, 2005.

Formerly Crim. Code, §§ 30, 31; C. & M. Dig., §§ 2901, 2902; Pope's Dig., §§ 3717, 3718; A.S.A. 1947, §§ 43-421, 43-422.

16-84-101. Definitions.

As used in this chapter:

(1) "Admission to bail" means an order from a competent court or magistrate that the defendant be discharged from actual custody on bail and fixing the amount of the bail;

(2) "Direct supervision" means the person is in the physical presence of and acting pursuant to instructions from an Arkansas-licensed bail bond agent;

(3) "Professional bail bondsman" means an individual licensed as a professional bail bondsman by the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board pursuant to § 17-19-201 et seq.;

(4) "Professional bail bond company" means a person holding a professional bail bond company license issued by the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board pursuant to § 17-19-201 et seq.;

(5) "Surety" means the person who becomes the surety for the appearance of the defendant in court; and

(6)(A) "Taking of bail" or "take bail" means the acceptance by a person authorized to take bail of the undertaking of a sufficient surety for the appearance of the defendant according to the terms of the undertaking, or that the surety will pay to the court the sum specified.

(B) "Taking of bail" or "take bail" shall not include the fixing of the amount of bail and no person other than a competent court or magistrate shall fix the amount of bail.

HISTORY:

Acts of 1989, Act 417, § 5; Acts of 1997, Act 973, § 1; Acts of 2001, Act 1387, § 1, eff. Aug. 13, 2001.

Formerly A.S.A. 1947, §§ 43-701, 43-702; Crim. Code, §§ 67, 68; C. & M. Dig., §§ 2943, 2944; Pope's Dig., §§ 3759, 3760; Acts of 1989, Act 417, § 7.

16-84-102. Person authorized to take bail

The following may take bail:

(1) A judge, magistrate, or clerk of the court;

(2) A sheriff or deputy sheriff with respect to any person committed to the common jail of the county;

(3) Any law enforcement officer designated by a municipal police department with respect to any person committed to a municipal jail; and

(4) A law enforcement officer making an arrest as authorized under § 16-81-109.

(b) A constable shall not take bail.

HISTORY:

Acts of 1989, Act 417, § 5; Acts of 2005, Act 1994, § 270, eff. Aug. 12, 2005.

Formerly A.S.A. 1947, §§ 43-703 to 43-706; Crim. Code, §§ 72 to 75; C. & M. Dig., §§ 2945 to 2948; Pope's Dig., §§ 3761 to 3764; Acts of 1989, Act 417, § 7.

16-84-103 Qualification of surety.

(a) The surety shall be:

(1) A professional bail bondsman acting through a professional bail bond company; or

(2) A resident of the state, owner of visible property, over and above that exempt from execution, to the value of the sum in which bail is required, and shall be worth that amount after the payment of the surety's debts and liabilities.

(b)(1)(A)(i) The person or persons offered as surety shall be examined on oath in regard to qualifications as surety, and any officer authorized to take bail is authorized to administer the oath, reduce the statements on oath to writing, and require the person or persons offered as surety to sign the statement.

(ii) Other proof may also be taken in regard to the sufficiency of the surety.

(B) Prior to submission to the court or magistrate, the statement shall also be signed by the sheriff or chief of police in the jurisdiction where the defendant is charged.

(2) Proof that the surety is a licensed professional bail bondsman shall be deemed sufficient proof of the sufficiency of the surety, and the surety shall be accepted by all courts in this state or by any individual authorized to take bail under the provisions of § 16-84-102.

(c) No person shall be taken as surety unless the court or magistrate is satisfied, from proof and examination on oath, of the sufficiency of the person according to the requisitions of subsection (b) of this section.

(d) Where more than one (1) person is offered as surety, they shall be deemed sufficient if, in the aggregate, they possess the qualifications required.

HISTORY:

Acts of 1989, Act 417, § 5; Acts of 1997, Act 973, § 2; Acts of 2003, Act 1648, § 1, eff. July 16, 2003.

Formerly A.S.A. 1947, § 27-2204; Rev. Stat., ch. 116, § 23; C. & M. Dig., § 800; Pope's Dig., § 956; Acts of 1963, Act 487, § 1; Acts of 1989, Act 417, § 7.

16-84-104. Additional security.

There shall be no rules, regulations, or requirements enacted by any judge, magistrate, sheriff, or other officer of the court, requiring any professional bail bondsman or professional bail bond company to post any sum of security in addition to that required by the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board pursuant to § 17-19-205 as a requirement for acceptance or writing bail bonds.

HISTORY:

Acts of 1989, Act 417, § 5; Acts of 1997, Act 973, § 3.

Formerly A.S.A. 1947, § 43-707; Crim. Code, § 77; C. & M. Dig., § 2949; Pope's Dig., § 3765; Acts of 1989, Act 417, § 7.

17-19-205 as a requirement for acceptance or writing bail bonds. Letter of credit or certificate of deposit required

a)(1) An applicant for a professional bail bond company license shall file with the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board an irrevocable letter of credit from an Arkansas chartered bank or a federally chartered bank in Arkansas or a certificate of deposit.

(2)(A) The letter of credit or certificate of deposit shall be approved by the board as to form and sufficiency and shall be conditioned upon faithful performance of the duties of the licensee.

(B) The minimum amount for a professional bail bond company initially licensed on or before July 1, 1989, shall be twenty-five thousand dollars ($25,000).
(C) The minimum amount for a professional bail bond company initially licensed after July 1, 1989, shall be one hundred thousand dollars ($100,000).
(D) The minimum amount for a professional bail bond company initially licensed on or after July 1, 2009, shall be two hundred fifty thousand dollars ($250,000).
(E) Professional bail bond companies and professional bail bondsmen who were licensed under Act 400 of 1971 [repealed] before March 8, 1989, shall be required only to file or have on file with the board a letter of credit or certificate of deposit approved by the board as to form and sufficiency, in a minimum amount of five thousand dollars ($5,000), conditioned upon the faithful performance of the duties of the licensee, provided they do not exceed the maximum amount of unsecured bond commitments as provided in § 17-19-304.
(b) A letter of credit or certificate of deposit shall not be subject to termination or cancellation by either party in less than sixty (60) days after the giving of written notice thereof to the other parties and to the board.
(c) A termination or cancellation shall not affect the liability of the surety or sureties on a bond incurred before the effective date of termination or cancellation.

HISTORY:

Acts of 1989, Act 417, § 1; Acts of 1995, Act 827, § 4; Acts of 2009, Act 147, § 1, eff. July 31, 2009.

16-84-105. Responsibility of officer taking bail.

(a) The officer who takes bail shall be officially responsible for the sufficiency of the surety if taken other than through a professional bail bondsman.
(b) If the surety is not a professional bail bondsman, and the defendant has not yet appeared before a judicial officer pursuant to Rule 9 of the Arkansas Rules of Criminal Procedure, the officer shall file a statement with the court describing the property of the surety upon which the sufficiency of the surety is based. The description of the property shall include the value of the property. The statement shall also be signed by the sheriff or chief of police in the jurisdiction where the defendant is charged.
(c) The officer who takes bail shall give a prenumbered written receipt for the collateral. The receipt shall give in detail a full account of the collateral received.
(d) An officer who takes bail shall not be liable for any bond ordered by a judicial officer under Rule 9.2(b)(i) or (ii) of the Arkansas Rules of Criminal Procedure.

HISTORY:

Acts of 1989, Act 417, § 5; Acts of 1995, Act 470, § 1.
Formerly A.S.A. 1947, § 27-2201; Acts of 1857, § 1, p. 135; C. & M. Dig., § 801; Pope's Dig., § 957; Acts of 1989, Act 417, § 7.

16-84-106. Attorneys and officers not to be sureties.

No attorney, solicitor, or counselor at law or in equity, clerk, sheriff, chief of police, law enforcement officer, or other person concerned in the execution of any process, shall become a personal guarantor or surety in any criminal proceeding.

HISTORY:

Acts of 1989, Act 417, § 5; Acts of 1997, Act 1046, § 1.

Formerly A.S.A. 1947, § 43-708; Crim. Code, § 80; C. & M. Dig., § 2953; Pope's Dig., § 3769; Acts of 1989, Act 417, § 7.

16-84-107. Form of bond.

(a) The undertaking of the surety, other than by a professional bail bondsman, shall be substantially as follows:

"A.B., being in custody, charged with the offense of ..... (naming or briefly describing it), and being admitted to bail in the sum of ..... dollars, we C.D., of ..... (stating his place of residence), and E.F., of ..... (stating his place of residence), hereby undertake that the above named A.B. shall appear in the ..... court on the ... day of its ... term to answer said charge, and shall at all times render himself or herself amenable to the orders and process of said court in prosecution of said charge, and, if convicted, shall render himself in execution thereof; or if he fail to perform either of these conditions, that we will pay to the appropriate court the sum of ..... dollars."

(b) If the surety is a professional bail bondsman, the undertaking of the surety shall be in a form prescribed by the rules of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

HISTORY:

Acts of 1989, Act 417, § 5; Acts of 1997, Act 973, § 4; Acts of 2019, Act 315, § 1301, eff. July 24, 2019.

Formerly A.S.A. 1947, § 43-709; Crim. Code, § 70; C. & M. Dig., § 2957; Pope's Dig., § 3773; Acts of 1989, Act 417, § 7.

16-84-108. Bonds not void for want of form.

No prosecution, appeal, nonresident, or attachment bond, nor any other statutory bonds of any party, plaintiff, or defendant in any court of justice, in this state, nor any recognizance in any criminal cause in this state, shall be declared null and void for the want of form if the intent of the bond can be plainly deduced from the body of the bond or recognizance.

HISTORY:

Acts of 1989, Act 417, § 5.

Formerly A.S.A. 1947, § 43-710; Crim. Code, § 69; C. & M. Dig., § 2956; Pope's Dig., § 3772; Acts of 1989, Act 417, § 7.

16-84-109. Irregularity of bail bond or recognizance.

(a) No bail bond or recognizance shall be deemed to be invalid by:

(1) Reason of any variance between its stipulations and the provisions of this chapter;

(2) The failure of the judge or magistrate or officer to transmit or deliver the bail bond or recognizance at the times provided in this subchapter; or

(3) Any other irregularity so that it is made to appear that the defendant was:

(A) Legally in custody;

(B)(i) Charged with the public offense; and

(ii) Discharged from the offense by reason of the giving of the bond or recognizance; and

(C) Can be ascertained from the bond or recognizance, that the surety undertook that the defendant should appear before a judge or magistrate for the trial of the offense.

(b)(1) If no day is fixed for the appearance, or an impossible day, or a day in vacation, the bond or recognizance, if for his or her appearance before a judge or magistrate, shall be considered as binding the defendant so to appear and surrender himself or herself into custody for an examination of the charge in twenty (20) days from the time of his or her giving the bond or recognizance.

(2) The bond or recognizance, if for his or her appearance for trial in court, shall be considered as binding the defendant to appear and surrender himself or herself into custody on the first day of the next term of the court which shall commence more than ten (10) days after the giving of the bond or recognizance.

HISTORY:

Acts of 1989, Act 417, § 5; Acts of 2005, Act 1994, § 271, eff. Aug. 12, 2005.

Formerly A.S.A. 1947, § 43-711; Rev. Stat., ch. 45, § 236; C. & M. Dig., § 2954; Pope's Dig., § 3770; Acts of 1989, Act 417, § 7.

16-84-110. Bail before conviction.

Before conviction, the defendant may be admitted to bail for his or her appearance:

(1) Before a judge or magistrate for an examination of the charge, where the offense charged is a misdemeanor;

(2) In the court to which he or she is sent for trial;

(3) To answer an indictment which has been found against him or her; or

(4) In a criminal action.

HISTORY:

Acts of 1989, Act 417, § 5; Acts of 2005, Act 1994, § 271, eff. Aug. 12, 2005.

Formerly A.S.A. 1947, § 43-712; Crim. Code, § 76; C. & M. Dig., § 2955; Pope's Dig., § 3771; Acts of 1989, Act 417, § 7.

16-84-111. Bail during trial.

(a) During the trial of an indictment for a misdemeanor, the defendant may remain on bail.

(b) However, for a felony when a defendant is upon bail, he or she may remain upon bail or be kept in actual custody as the court may direct. If the defendant remains on bail, any surety's liability shall be exonerated unless the surety has agreed to remain as the surety until final judgment is rendered.

HISTORY:

Formerly A.S.A. 1947, §§ 43-713 to 43-715; Crim. Code, §§ 78, 79; Acts of 1871, Act 49, § 1, p. 255; Acts of 1875 (Adj. Sess.), Act 9, § 1, p. 10; C. & M. Dig., §§ 2950 to 2952; Pope's Dig., §§ 3766 to 3768; Acts of 1989, Act 417, § 7.16-84-112.

16-84-112 Entering of recognizance on court minutes.

All recognizances required or authorized to be taken in any criminal proceeding, in open court, by any court of record shall be entered on the minutes of the court, and the substance thereof shall be read to the person recognized.

HISTORY:

Acts of 1989, Act 417, § 5.

Formerly A.S.A. 1947, §§ 43-716 to 43-718; Crim. Code, §§ 81 to 83; C. & M. Dig., §§ 2961 to 2963; Pope's Dig., §§ 3777 to 3779; Acts of 1989, Act 417, § 7.

16-84-113. Application for bail.

(a) If the defendant is committed to jail and the application for bail is made to a judge or magistrate during vacation, it must be by written petition signed by the defendant or his or her counsel briefly stating the offense for which he or she is committed and naming the persons offered as surety.

(b) In all other cases, the application may be made orally to the judge or magistrate.

HISTORY:

Acts of 1989, Act 417, § 5; Acts of 2005, Act 1994, § 272, eff. Aug. 12, 2005.

Formerly A.S.A. 1947, §§ 43-719 to 43-722; Crim. Code, §§ 84 to 87; C. & M. Dig., §§ 2964 to 2967; Pope's Dig., §§ 3780 to 3783; Acts of 1989, Act 417, § 7.

16-84-114. Surrender of defendant.

(a)(1) At any time before the forfeiture of their bond, the surety may surrender the defendant or the defendant may surrender himself or herself to the jailer of the county in which the offense was committed.

(2) However, the surrender must be accompanied by a certified copy of the bail bond to be delivered to the jailer, who must detain the defendant in custody thereon as upon a commitment and give a written acknowledgment of the surrender.

(3) The surety shall thereupon be exonerated.

(b)(1) For the purpose of surrendering the defendant, the surety may obtain from the officer having in his or her custody the bail bond or recognizance a certified copy thereof, and thereupon at any place in the state may arrest the defendant.

(2) No person other than an Arkansas-licensed bail bond agent, an Arkansas-licensed private investigator, a certified law enforcement officer, or a person acting under the direct supervision of an Arkansas-licensed bail bond agent shall be authorized to apprehend, detain, or arrest a defendant on a bail bond, wherever issued, unless that person is licensed as a bail bond agent by the state where the bail bond was written.

(3) No person shall represent himself or herself to be a bail enforcement agent, bounty hunter, or similar title in this state.

(4) Any bail bond agent attempting to apprehend a defendant shall notify the local law enforcement agency or agencies of his or her presence and provide the local law enforcement agency or agencies with the defendant's name, charges, and suspected location.

(5) Any person who violates any provision of this section shall be guilty of a Class D felony.

(c) The surety may arrest the defendant without the certified copy.

(d) If the surety has good cause for surrendering the defendant and has complied with the provisions of this section in surrendering the defendant, there shall be no requirement that the surety return part or all of the premium paid for the bail bond.

HISTORY:

cts of 1989, Act 417, § 5; Acts of 1995, Act 593, § 1; Acts of 1999, Act 1445, § 1, eff. July 30, 1999; Acts of 2001, Act 1387, § 2, eff. Aug. 13, 2001.

Formerly A.S.A. 1947, §§ 43-730, 43-731; Crim. Code, §§ 96, 97; C. & M. Dig., §§ 2975, 2976; Pope's Dig., §§ 3791, 3792; Acts of 1989, Act 417, § 7.

16-84-115. Deposit of money in lieu of bail.

Notwithstanding any rule of criminal procedure to the contrary:

(1)(A) Whenever the defendant is admitted to bail in a specified sum, he or she may deposit the sum with the proper city or county official in the city or county in which the trial is directed to be had and take from the official a receipt of the deposit, upon delivering which to the officer in whose custody he or she is, he or she shall be discharged.

(B) After bail has been taken, a deposit may in like manner be made of the sum mentioned in the bail bond, which shall exonerate the surety.

(2) Where money is deposited, the proper city or county official shall hold and pay the money according to the orders of the court having jurisdiction to try the offense, and he or she and his or her sureties shall be liable for the money on their official bond.
(3) Upon judgment being rendered against a defendant for fine and costs, the court rendering judgment may order any money deposited agreeably to this section to be applied to the payment thereof. This subdivision (a)(3) shall not apply to a bail bond of a bail bondsman.
(4) The mayor shall designate the city official or officials who may accept a deposit of money in lieu of bail, and the county judge shall designate the county official or officials authorized to accept a deposit of money in lieu of bail.

HISTORY:
Acts of 1989, Act 417, § 5; Acts of 1991, Act 720, § 1.
Formerly A.S.A. 1947, § 43-732; Acts of 1959, Act 268, § 1; Acts of 1989, Act 417, § 7.

16-84-116. Recommitment after bail or deposit of money.

(a) The court in which a prosecution for a public offense is pending may, by an order, direct the defendant to be arrested and committed to jail until legally discharged, after he or she has given bail, or deposited money in lieu thereof, in the following cases:
(1) When by having failed to appear, a forfeiture of bail or of the money deposited has been incurred;
(2) When the court is satisfied that his or her surety, or either of them, is dead, or insufficient, or has moved from the state;
(3) Upon an indictment's being found for an offense not bailable.
(b) Upon the order being made, the clerk shall issue process for the arrest and recommitment of the defendant. If the order is made on account of either of the cases mentioned in subdivision (a)(1) or (a)(2) of this section, the defendant shall be admitted to bail as upon his or her first commitment, in a sum to be fixed by the court and named in the process for his or her arrest.
HISTORY:
Acts 1989, No. 417, § 5.

16-84-201. Action on bond in district courts.

(a)(1)(A) If the defendant fails to appear for trial or judgment, or at any other time when his or her presence in district court may be lawfully required, or to surrender himself or herself in execution of the judgment, the district court may direct the fact to be entered on the minutes and shall promptly issue an order requiring the surety to appear, on a date set by the district court not more than one hundred twenty (120) days from the date notice is sent by certified mail to the surety company at the address shown on the bond, whether or not it is received by the surety, to show cause why the sum specified in the bail bond or the money deposited in lieu of bail should not be forfeited.
(B) The one-hundred-twenty-day period in which the defendant must be surrendered or apprehended under subdivision (c)(2) of this section begins to run from the date notice is sent by certified mail to the surety company at the address shown on the bond, whether or not it is received by the surety.
(2) The order shall also require the officer who was responsible for taking of bail to appear unless:
(A) The surety is a bail bondsman; or
(B) The officer accepted cash in the amount of bail.

(b) The appropriate law enforcement agencies shall make every reasonable effort to apprehend the defendant.
(c)(1) If the defendant is surrendered or arrested, or good cause is shown for his or her failure to appear before judgment is entered against the surety, the district court shall exonerate a reasonable amount of the surety's liability under the bail bond.
(2) However, if the surety causes the apprehension of the defendant or the defendant is apprehended within one hundred twenty (120) days from the date notice is sent by certified mail to the surety company at the address shown on the bond, whether or not it is received by the surety, a judgment or forfeiture of bond may not be entered against the surety, except as provided in subsection (e) of this section.
(d) If after one hundred twenty (120) days from the date notice is sent by certified mail to the surety company at the address shown on the bond, whether or not it is received by the surety, the defendant has not surrendered or been arrested, the bail bond or money deposited in lieu of bail may be forfeited without further notice or hearing.
(e) If the defendant is located in another state and the location is known within one hundred twenty (120) days from the date notice is sent by certified mail to the surety company at the address shown on the bond, whether or not it is received by the surety, the appropriate law enforcement officers shall cause the arrest of the defendant and the surety shall be liable for the cost of returning the defendant to the district court in an amount not to exceed the face value of the bail bond.
(f)(1) In determining the extent of liability of the surety on a bond forfeiture, the court, without further notice or hearing, may take into consideration the expenses incurred by the surety in attempting to locate the defendant and may allow the surety credit for the expenses incurred.
(2) To be considered by the court, information concerning expenses incurred in attempting to locate the defendant should be submitted to the court by the surety no later than the one-hundred-twentieth day from the date notice is sent by certified mail to the surety company at the address shown on the bond, whether or not it is received by the surety.
(g) Notwithstanding any law to the contrary, a district court may suspend a bail bond company's or agent's ability to issue bail bonds in its court if the bail bond company or agent fails to comply with an order of the district court or fails to pay forfeited bonds in accordance with a district court's order.

HISTORY:

Acts of 1989, Act 417, § 5; Acts of 1991, Act 991, § 1; Acts of 1993, Act 841, § 1; Acts of 1995, Act 1106, § 1; Acts of 1999, Act 567, § 5, eff. July 30, 1999; Acts of 2003, Act 752, § 2, eff. July 16, 2003; Acts of 2003, Act 1572, § 1, eff. July 16, 2003; Acts of 2009, Act 633, § 16, eff. July 31, 2009.

Formerly A.S.A. 1947, §§ 43-723, 43-724; Crim. Code, §§ 88, 89; C. & M. Dig., §§ 2968, 2969; Pope's Dig., §§ 3784, 3785; Acts of 1971, Act 109, § 1; Acts of 1989, Act 417, § 7.

16-84-202. Disposition of deposit.

(a) Where money is deposited in lieu of bail with a city official, after the forfeiture and final judgment of the court, the city official shall make settlement with the city treasurer who shall deposit the funds to the credit of the city general fund.
(b) Where money is deposited in lieu of bail with a county official, after the forfeiture and final adjournment of the court, the county official shall make settlement with the county treasurer who shall deposit the funds to the credit of the county general fund.

HISTORY:

Acts 1989, No. 417, § 5; 1991, No. 720, § 2.

16-84-203. Certain absences excused.

(a) No forfeiture of any appearance or bail bond shall be rendered in any

case where a sworn statement of a licensed court-appointed physician is
furnished the court showing that the principal in the bond is prevented from attending by some physical or mental disability or where a sworn affidavit of the jailer, warden, or other responsible officer of a jail or correctional facility in which the principal is being detained shall be furnished to the court, or a sworn affidavit of any officer in charge is furnished to the court showing that the principal in the bond is prevented from attending due to the fact that he or she is being detained by a force claiming to act under the authority of the federal government that neither the state nor the surety could control.

(b) The appearance or bail bond shall remain in full force and effect until
the principal is physically or mentally able to appear or until a detainer
against the principal is filed with the detaining authority.

HISTORY:

Acts of 1989, Act 417, § 5; Acts of 1991, Act 720, § 2.

Formerly A.S.A. 1947, § 43-725; Crim. Code, § 90; C. & M. Dig., § 2970; Pope's Dig., § 3786; Acts of 1989, Act 417, § 7.

16-84-207. Action on bail bond in circuit courts.

(a) If a bail bond is granted by a judicial officer, it shall be conditioned on the defendant's appearing for trial, surrendering in execution of the judgment, or appearing at any other time when his or her presence in circuit court may be lawfully required under Rule 9.5 or Rule 9.6 of the Arkansas Rules of Criminal Procedure, or any other rule.

(b)(1) If the defendant fails to appear at any time when the defendant's presence is required under subsection (a) of this section, the circuit court shall enter this fact by written order or docket entry, adjudge the bail bond of the defendant or the money deposited in lieu thereof to be forfeited, and issue a warrant for the arrest of the defendant.

(2) The circuit clerk shall:

(A) Notify the sheriff and each surety on the bail bond that the defendant should be surrendered to the sheriff as required by the terms of the bail bond; and

(B) Immediately issue a summons on each surety on the bail bond requiring the surety to personally appear on the date and time stated in the summons to show cause why judgment should not be rendered for the sum specified in the bail bond on account of the forfeiture.

(c)(1)(A) If the defendant is apprehended and brought before the circuit court within seventy-five (75) days of the date notification is sent under subdivision (b)(2)(A) of this section, then no judgment of forfeiture may be entered against the surety.

(B) The surety shall be liable for the cost of returning the defendant to the circuit court in an amount not to exceed the face amount of the bond.

(2)(A) If the defendant is apprehended and brought before the circuit court after the seventy-five-day period under subdivision (c)(1) of this section, the circuit court may exonerate the amount of the surety's liability under the bail bond as the circuit court determines in its discretion and, if the surety does not object, enter judgment accordingly against the surety.

(B) In determining the extent of liability of the surety on the bond, the circuit court may take into consideration the actions taken and the expenses incurred by the surety to locate the defendant, the expenses incurred by law enforcement officers to locate and return the defendant, and any other factors the circuit court finds relevant.

(3) The appropriate law enforcement agencies shall make every reasonable effort to apprehend the defendant.

(d)(1) If the surety does not consent to the entry of judgment in the amount determined under subsection (c) of this section, or if the defendant has not surrendered or been brought into custody, then at the time of the show cause hearing unless continued to a subsequent time, the circuit court shall determine the surety's liability and enter judgment on the forfeited bond.

(2) The circuit court may exercise its discretion in determining the amount of the judgment and may consider the factors listed in subsection (c) of this section.

(e)(1) No pleading on the part of the state shall be required in order to enforce a bond under this section.

(2) The summons required under subsection (b) of this section shall be made returnable and shall be executed as in civil actions, and the action shall be docketed and shall proceed as an ordinary civil action.

(3) The summons shall be directed to and served on the surety in the manner provided in Rule 4 of the Arkansas Rules of Civil Procedure, and the surety's appearance pursuant to the summons shall be in person and not by filing an answer or other pleading.

(f) Notwithstanding any law to the contrary, a circuit court may suspend a bail bond company's or agent's ability to issue bail bonds in its court if the bail bond company or agent fails to comply with an order of the circuit court or fails to pay forfeited bonds in accordance with a circuit court's order.

HISTORY:

Acts of 2003, Act 752, § 1, eff. July 16, 2003; Acts of 2003, Act 1472, § 1, eff. July 16, 2003; Acts of 2009, Act 290, § 1, eff. July 31, 2009.

16-85-101. Right to attorney, physician, and phone calls.

(a) While confined and awaiting trial in any prison or jail in this state, no prisoner shall be denied the right to:

(1) Consult an attorney of the prisoner's own choosing;

(2) Call a physician of the prisoner's own choosing if in need of one; or

(3) Place free telephone calls to a bondsperson if the calls are local calls.

(b) Any officer or other person having charge or supervision of any prisoner in the state who refuses to permit the prisoner to consult an attorney of the prisoner's own choosing, call a physician of the prisoner's own choosing, or place free telephone calls to a bondsperson if the calls are local shall be guilty of a Class B misdemeanor.

HISTORY:

Acts of 1937, Act 306, §§ 2, 3; Acts of 2001, Act 1682, § 1, eff. Aug. 13, 2001; Acts of 2003, Act 1648, § 2, eff. July 16, 2003; Acts of 2005, Act 1994, § 236, eff. Aug. 12, 2005.

Formerly Pope's Dig., §§ 3043, 3044; A.S.A. 1947, §§ 43-417.1, 43-417.2.

16-90-105. Verdict of guilty.

(a) Upon the return of a verdict of guilty, if tried by a jury, or the finding of guilt if tried by the circuit court without a jury, sentence may be announced.

(b) The judgment of the circuit court may be then and there entered for sentencing and the entry of the judgment may be postponed to a date certain then fixed by the circuit court not more than thirty (30) days thereafter, at which time probation reports may be submitted, matters of mitigation presented, or any other matter heard that the circuit court or the defendant might deem appropriate to consider before the pronouncement of sentence and entry of the formal judgment.

(c) If the defendant is ordered to be held without bond or for any reason whatever, the defendant may file a written demand for immediate sentencing, whereupon the trial judge shall cause formal sentence and judgment to be made of record.

(d) At the time sentence is announced and judgment entered, the trial judge must advise the defendant of his or her right to appeal and either fix or deny bond.

(e) In its discretion, the trial judge may order:

(1) The defendant released from custody on his or her own recognizance;

(2) Another bond fixed;

(3) The defendant to remain subject to the provisions of his or her bond if the defendant appeared at trial on bail bond; or

(4) The defendant to the custody of the county sheriff to be held without bond.

HISTORY:

Acts 1971, No. 333, § 2; A.S.A. 1947, § 43-2301.

16-94-216. Bail.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the judge or magistrate must admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as the judge or magistrate deems proper, for the prisoner's appearance before the judge or magistrate at a time specified in such bond or undertaking, and for the prisoner's surrender, to be arrested upon the warrant of the Governor of this state.

HISTORY:

Acts 1935, No. 126, § 16; Pope's Dig.,§ 6096; A.S.A. 1947,

§43-3016.

16-94-217. Discharge of warrant.

If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant, bond, or undertaking, the judge or magistrate may discharge the accused or may recommit the accused to a further day, or may again take bail for his or her appearance and surrender, as provided in § 16-94-216; and at the expiration of the second period of commitment, or if the accused has been bailed and appeared according to the terms of his or her bond or undertaking, the judge or magistrate may either discharge the prisoner, or may require the prisoner to enter into a new bond or undertaking, to appear and surrender himself or herself at another day.

HISTORY:

Acts 1935, No. 126, § 17; Pope's Dig.,§ 6097; A.S.A. 1947, §

43-3017

17-19-101. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) “Bail bond or appearance bond” means a bond for a specified monetary amount which is executed by the defendant and a qualified licensee under this chapter and which is issued to a court, magistrate, or authorized officer as security for the subsequent court appearance of the defendant upon his or her release from actual custody pending the appearance;

(2) “Insurer” means any surety company which has qualified to transact surety business in this state;

(3) “Licensee” means a professional bail bond company or a professional bail bondsman;

(4) “Professional bail bond company” means an individual who is a resident of this state, an Arkansas firm, partnership, or corporation, or a foreign corporation registered and authorized to conduct business in the State of Arkansas that pledges a bail bond in connection with a judicial proceeding and receives or is promised therefor money or other things of value; and

(5) “Professional bail bondsman” means an individual who is a resident of this state and who acts through authority of a professional bail bond company in pledging a bail bond as security in a judicial proceeding.

HISTORY:

Acts of 1989, Act 417, § 1; Acts of 1995, Act 827, §§ 1, 3; Acts of 2019, Act 386, § 3, eff. July 24, 2019.

17-19-102 Penalties.

((a) Any person who is found guilty of violating any of the provisions of this chapter shall upon conviction be guilty of a Class A misdemeanor.

(b) Any person who falsely represents to the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board that any person has met the education or continuing education requirements of §§ 17-19-107 and 17-19-212 and § 17-19-401 et seq. shall be guilty of a Class B misdemeanor and upon conviction shall be punished accordingly.

HISTORY:

Acts of 1989, Act 417, § 1; Acts of 1993, Act 499, § 6; Acts of 2005, Act 1994, § 226, eff. Aug. 12, 2005.

17-19-103. Civil and criminal proceedings.

The venue for any criminal or civil proceeding filed for any violation of this chapter shall be in the county wherein the violation occurred.

HISTORY:

Acts 1989, No. 417, § 1.

17-19-104. Exemption.

This chapter shall not affect the negotiation through a licensed broker or agent for, nor the execution or delivery of, an undertaking of bail executed by an insurer for its insured under a policy of automobile insurance or of liability insurance upon the automobile of the insured.

History

Acts 1989, No. 417, § 1.

17-19-105. Prohibitions.

No professional bail bondsman or professional bail bond company, nor court, nor law enforcement officer, nor any individual working on behalf of a professional bail bondsman or professional bail bond company, shall:

(1) Require as a condition of his or her executing a bail bond that the principal agree to engage the services of a specified attorney;

(2) Solicit business or advertise for business in or about any place where prisoners are confined or in or about any court;

(3) Suggest or advise the engagement of any bail bond company or professional bail bondsman to underwrite a bail bond;

(4) Enter a police station, jail, sheriff's office, or other place where persons in custody of the law are detained for the purpose of obtaining employment as a professional bail bondsman or professional bail bond company, without having been previously called by a person so detained or by some relative or other authorized person acting for or in behalf of the person so detained.

Whenever such an entry occurs, the person in charge of the facility shall be given and promptly record the mission of the licensee and the name of the person calling the licensee and requesting him or her to come;

(5) Pay a fee or rebate or give or promise anything of value to:

(A) A jailer, police officer, peace officer, committing magistrate, or any other person who has power to arrest or to hold in custody; or

(B) Any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or estreatment thereof;

(6) Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(7) Pay a fee or rebate or give or promise anything of value to the principal or anyone in his or her behalf;

(8)(A) Participate in the capacity of an attorney at a trial or hearing of one on whose bond he or she is surety;

(B) Attempt to obtain settlement or dismissal of a case;

(C) Give or attempt to give any legal advice to one on whose bond he or she is surety;

(9) Accept anything of value from a principal except the premium, provided that the licensee shall be permitted to accept collateral security or other indemnity from the principal which shall be returned upon final termination of liability on the bond. The collateral security or other indemnity required by the licensee must be reasonable in relation to the amount of the bond; or

(10) Permit a bail bond to be executed to effect the release of a defendant without the bondsman being physically present.

History

Acts of 1989, Act 417, § 1; Acts of 1997, Act 973, § 5; Acts of 2021, Act 1039, § 1, eff. July 28, 2021.

17-19-106. Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

(a) This section may be cited as the "Arkansas Professional Bail Bond Company and Professional Bail Bondsman Licensing Act".

(b)(1) There is hereby created the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

(2)(A) The board shall be composed of seven (7) members to be appointed by the Governor for terms of seven (7) years.

(B) Vacancies shall be filled by appointment of the Governor for the unexpired portion of the term.

(3)(A) Three (3) members of the board shall be licensed bail bond company owners, one (1) a current or former municipal chief of police, one (1) a current or former county sheriff, and two (2) shall be residents of the state who are not a bail bond company owner, a sheriff, or a chief of police.

(B)(i) Each congressional district shall be represented by at least one (1) member of the board.

(ii) At least one (1) board member shall be an African-American.

(iii) At least one (1) board member shall be a female.

(4) The board shall have the authority and responsibility to administer and enforce the provisions of this chapter relating to licensing and regulation of professional bail bond companies and professional bail bondsmen.

(5) The board shall have the authority to adopt and enforce such reasonable rules as it determines to be necessary to enable it to effectively and efficiently carry out its official duty of licensing and regulating professional bail bond companies and professional bail bondsmen.

(c) The members of the board shall receive expense reimbursement in accordance with § 25-16-901 et seq., and a stipend pursuant to § 25-16-904.

(d) The provisions of this section shall not be construed to repeal any laws in effect on August 13, 1993, relating to the licensing and regulation of professional bail bond companies and professional bail bondsmen but such laws shall remain in full force and effect and shall be administered by the board created herein.

History

Acts of 1993, Act 500, §§ 1 to 5; Acts of 1995, Act 827, § 2; Acts of 1997, Act 250, § 126, eff. Feb. 24, 1997; Acts of 1999, Act 1286, § 2, eff. July 30, 1999; Acts of 2001, Act 1817, § 1, eff. Aug. 13, 2001; Acts of 2009, Act 683, §§ 1, 2, eff. July 31, 2009; Acts of 2019, Act 315, § 1358, eff. July 24, 2019; Acts of 2021, Act 1033, § 1, eff. July 28, 2021.

17-19-107. Exception to education requirements.

Any licensed professional bail bondsman who is sixty-five (65) years of age or older and who has been licensed as a bail bondsman for fifteen (15) years or more shall be exempt from both the education and continuing education requirements of § 17-19-212 and § 17-19-401 et seq.

History

Acts 1993, No. 499, § 3.

17-19-108. Rules.

The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall adopt such reasonable rules as it shall deem necessary to assure the effective and efficient administration of §§ 17-19-107 and 17-19-212 and § 17-19-401 et seq.

History

Acts of 1993, Act 499, § 7; Acts of 2019, Act 315, § 1359, eff. July 24, 2019.

17-19-109. Advertising by professional bail bond companies.

(a) All business cards, signs, telephone ads, newspaper ads, or any other type of advertising by professional bail bond companies shall display the company name prominently to assure that the identity of the company doing the advertising is readily apparent.

(b) Any such advertising by or on behalf of individual professional bail bondsmen shall prominently display the name of the bail bond company and shall contain no information or other indication that the bail bondsman is independent of the company.

History

Acts 1993, No. 400, § 1.

17-19-110. Licensed bail bond agent.

(a) A licensed bail bond agent shall be permitted to write a bail bond in any county if:

(1) The agent has a current license with a current licensed professional bail bond company; and

(2) The agent and the agent's company are in good standing with the courts in the jurisdiction where the bond is to be posted.

(b) A licensed bail bond agent shall carry a current copy of his or her professional bail bond agent license that shall indicate which professional bail bond company the bondsman works for and his or her qualifying power of attorney that is on file with the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

(c)(1) Only one (1) power of attorney per bond not exceeding the agent's qualifying power of attorney shall be permitted unless a court has separated the charges and amounts of bonds.

(2) Powers of attorney shall not be stacked.

History

Acts of 1993, Act 402, § 1; Acts of 1999, Act 567, § 2, eff. July 30, 1999; Acts of 2003, Act 1648, § 3, eff. July 16, 2003; Acts of 2011, Act 94, § 1, eff. July 27, 2011.

17-19-111. Fees.

(a) Notwithstanding any other provisions of this chapter to the contrary, and notwithstanding any other provisions of Arkansas law to the contrary, a professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 is hereby required to charge, collect, and remit the following fees into the Bail Bondsman Board Fund for the support, personnel, maintenance, and operations of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board and for the Domestic Peace Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence Commission, in addition to any other fees, taxes, premium taxes, levies, or other assessments imposed in connection with the issuance of bail bonds under Arkansas law.

(b)(1) In addition to the bail or appearance bond premium or compensation allowed under § 17-19-301, each licensed professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 shall charge and collect as a nonrefundable fee for the Bail Bondsman Board Fund an additional fee of ten dollars ($10.00) per bail bond for giving bond for each bail and appearance bond issued by the licensed professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 by or through its individual licensees.

(2) The fee shall be collected quarterly and then reported and filed with the board no later than fifteen (15) calendar days after the end of each quarter.

(3) The notarized quarterly reporting form and a notarized annual reconciliation form as to all fees collected for the Bail Bondsman Board Fund shall be filed by each professional bail bond company on forms prescribed by the board and at the times and in the manner as the board shall prescribe in conformity with this section.

(4) A paper-processing charge of fifteen dollars ($15.00) shall be collected on each bail bond in order to defray the surety's costs incurred by the quarterly and annual reporting requirements contained in this section and to further defray the surety's costs incurred in the collection of all fees due, owing, and collected on behalf of the Bail Bondsman Board Fund and the surety's costs incurred in the preparation of all required reports submitted in conformance with the standards established by the American Institute of Certified Public Accountants.

(c)(1) The board may grant an extension for the filing of the report and fees for good cause shown upon timely written request.

(2) Absent an extension for good cause shown, each licensed professional bail bond company failing to report or pay these fees shall be liable to the Bail Bondsman Board Fund for a monetary penalty of one hundred dollars ($100) per day for each day of delinquency.

(3) The board may pursue any appropriate legal remedies on behalf of the Bail Bondsman Board Fund to collect any delinquent fees and penalties.

(d)(1) Upon collection of the fees and any monetary penalties, the board shall deposit or fund:

(A) Sufficient fees and penalties directly into the Bail Bondsman Board Fund to provide for the personal services and operating expenses of the board; and

(B) The remainder of all fees and penalties directly into the Domestic Peace Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence Commission.

(2) The fees and penalties shall be in addition to all other fees, licensure or registration fees, taxes, assessments, levies, or penalties payable to any federal or state office, court, agency, board, or commission or other public official or officer of the state,

or its political subdivisions, including counties, cities, or municipalities, by a professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102.

(3)(A) Each bail bondsman is required to assist in collection of the fees but is exempt from the payment of the fees to the Bail Bondsman Board Fund unless he or she misappropriates or converts such moneys to his or her own use or to the use of others not entitled to the fees.

(B) In that case, the board shall proceed on behalf of the Bail Bondsman Board Fund with any civil or criminal remedies at its disposal against the individual responsible.

(C) Upon criminal conviction of the individual responsible for fraudulent conversion of the moneys due the Bail Bondsman Board Fund, the individual responsible shall pay restitution to the Bail Bondsman Board Fund, and the court shall incorporate a finding to that effect in its order.

(D) Absent substantial evidence to the contrary, the violations by the individual may be attributed to the employing bail bond company, and any criminal or civil court may, in its discretion and upon substantial evidence, order the employing bail bond company to pay restitution to the Bail Bondsman Board Fund on behalf of the responsible individual and shall incorporate that finding into its order.

(e) For purposes of any statutory security deposit Arkansas law requires of professional bail bond companies, including, but not limited to, the deposit under § 17-19-205, the payment of the fees required by this section is considered to be a duty of the licensee, so as to allow the board on behalf of the Bail Bondsman Board Fund to make a claim against any such deposit for the fees required by this section and any penalties owed on the fees, up to the limit of any security deposit.

(f) Under no circumstances shall the fees or penalties held in or for deposit into the Bail Bondsman Board Fund be subject to any tax, levy, or assessment of any kind, including, but not limited to, bond forfeiture claims, garnishment or general creditors' claims, remedies under Title 16 of this Code, or other provisions of Arkansas law.

History

Acts of 1993, Act 901, § 31, eff. April 6, 1993; Acts of 1997, Act 1248, § 39, eff. July 1, 1997; Acts of 1997, Act 1096, § 1; Acts of 2007, Act 730, § 1, eff. July 31, 2007; Acts of 2013, Act 1281, § 1, eff. Aug. 16, 2013; Acts of 2015, Act 1156, § 2, eff. July 22, 2015.

17-19-112. Unpaid bond forfeiture judgment limits.

(a)(1) There shall be an initial one hundred thousand dollars ($100,000) limit on active unpaid bond forfeiture judgments for each bail bonding company.

(2) Under this section, the amount of unpaid forfeiture or forfeitures shall be determined using the face value of an unpaid forfeited bond.

(b) When the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board is notified of a bond forfeiture judgment under § 17-19-208(b)(1) and has issued notice to the company after ninety (90) days from the date of judgment has elapsed, the value of the forfeited bond shall count against that company's respective limit.

(c) When a company's unpaid bond forfeiture or forfeitures reach one hundred thousand dollars ($100,000) or the total amount of security deposit posted with the board, whichever is higher, the company license shall be suspended.

(d) The license shall remain suspended until:

(1) The company can post an additional certificate of deposit or letter of credit with the board so that the company's security deposit exceeds the unpaid bond forfeiture or forfeitures amount;

(2) The bond forfeiture judgment or judgments are paid to the extent that the total amount of unpaid forfeiture or forfeitures are less than the security deposit posted with the board; or

(3)(A) The court that entered the bond forfeiture judgment releases the company's security deposit from responsibility on the unpaid forfeiture as required by § 17-19-208 (a)(1).

(B) If the court releases the company's security deposit from responsibility on an unpaid bond forfeiture judgment, the release must be decreed by court order.

(e) If the court releases the company's security deposit from liability on a bond forfeiture, that bond amount shall not count against the company's unpaid forfeiture limit.

(f) A company's unpaid bond forfeiture limit shall not exceed one hundred thousand dollars ($100,000) unless the company has posted additional security with the board and shall never exceed the company's total amount of posted security deposit or one hundred thousand dollars ($100,000), whichever is more.

History

Acts of 2011, Act 96, § 1, eff. July 27, 2011.

17-19-201. Licenses required.

(a) No person shall engage in bail bond business without first having been licensed as provided in this chapter.

(b) A professional bail bondsman shall not execute, issue, or deliver an appearance bond in this state without holding a valid appointment from a professional bail bond company and without attaching to the appearance bond an executed and numbered power of attorney referencing the professional bail bond company.

(c) An insurer shall not execute an undertaking of bail without being licensed as a professional bail bond company.

(d) A professional bail bond company shall not engage in the bail bond business:

(1) Without having been licensed as a professional bail bond company under this chapter; and

(2) Except through an agent licensed as a professional bail bondsman under this chapter.

(e) A professional bail bond company shall not permit any unlicensed person to solicit or engage in the bail bond business in the company's behalf, except for individuals who are employed solely for the performance of clerical, stenographic, investigative, or other administrative duties which do not require a license under this chapter and whose compensation is not related to or contingent upon the number of bonds written.

History

Acts of 1989, Act 417, § 1; Acts of 2021, Act 1039, § 2, eff. July 28, 2021.

17-19-202. Applications.

(a) Every applicant for a professional bail bondsman license or a professional bail bond company license shall apply on forms furnished by the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

(b) The application of a professional bail bondsman shall be accompanied by a duly executed power of attorney issued by the professional bail bond company for whom the professional bail bondsman will be acting.

(c)(1) An application for a professional bail bond company license shall be accompanied by proof that the applicant:

(A) Is an Arkansas partnership, firm, or corporation, a foreign corporation registered and authorized to conduct business in the State of Arkansas, or an individual who is a resident of the state; and

(B) Has at least one (1) owner or partner that has been licensed for at least two (2) years during the last three (3) years by the State of Arkansas as a professional bail bondsman.

(2) A corporation shall file proof that its most recent annual franchise tax has been paid to the Secretary of State.

(d)(1)(A) At the time of application for every professional bail bond company license, there shall be paid to the board:

(i) For a new company license, a fee of two thousand five hundred dollars ($2,500); or

(ii) For a renewal of a company license, a fee of one thousand dollars ($1,000).

(B) Each professional bail bond company license or renewal for a sole proprietor, partnership, or corporation shall include one (1) license for one (1) agent per company per year.

(2) Each applicant for a professional bail bondsman license shall pay the board a license fee of one hundred dollars ($100) at the time of application, except that if the applicant is also an applicant as an individual for a professional bail bond company license, then the applicant shall not be required to pay a license fee for licensure as a professional bail bondsman but shall comply with all other requirements for licensure as a professional bail bondsman.

(3) License fees shall be payable in full on a yearly basis regardless of the date of issuance.

(4) Any agent who transfers his or her license from one professional bail bond company to another shall:

(A) Pay to the board a transfer fee of two hundred fifty dollars ($250); and

(B) File with the board:

(i) A sworn affidavit stating that all premiums, fees, and powers of attorney owed to or issued by the professional bail bond company from which he or she is transferring his or her license have been delivered to the company;

(ii) A letter of resignation addressed to the professional bail bond company from which he or she is transferring or a letter of termination addressed to him or her from the professional bail bond company terminating his or her appointment;

(iii) A completed agent application on forms prescribed by the board;

(iv) A completed company statement from the company to which he or she desires to transfer his or her license; and

(v) An original qualifying power of attorney issued by the company to which he or she desires to transfer his or her license.

(5)(A) Upon receipt of a request for transfer of a bail bondsman license, the applicable transfer fee, and the documents specified in subdivision (d)(4) of this section, the board shall forward copies of the letter of resignation, if applicable, and the sworn affidavit of the agent to the professional bail bond company from which the agent desires to transfer his or her license.

(B) Upon receipt of the letter of resignation, if applicable, and the sworn affidavit of the licensee, the professional bail bond company from which the agent is transferring shall have seven (7) business days to contest the agent's sworn statement.

(C) A professional bail bond company contesting an agent's sworn statement shall file a written complaint on forms furnished by the board setting out in detail the property that the company denies the agent has returned as attested by the sworn affidavit.

(D) Any documents supporting the complaint contesting the sworn affidavit and which shall be offered as evidence to prove the complaint shall be filed with the complaint.

(E) Upon receipt of the complaint, the Executive Director of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall set the matter for informal hearing to be held within seven (7) days of receipt of the complaint and advise the professional bail bond company and the agent by certified mail, return receipt requested, of the date, time, and location of the informal hearing.

(F) Either party may appeal the decision of the executive director to a formal hearing before the board by filing with the board a notice of appeal within seven (7) days of receipt of the decision by the executive director.

(G)(i) No transfer of an agent's license shall be effective before the expiration of the seven-day period for contesting the transfer request unless the professional bail bond company from which the agent is requesting a transfer shall notify the board that it has no objection to the transfer, in which case the transfer may be entered before expiration of the seven-day period.

(ii) If no complaint contesting the agent's sworn affidavit is received during the seven-day contest period, the license shall be transferred as requested.

(iii) A professional bail bond company that does not contest the sworn affidavit of a transferring agent is not precluded by the failure to contest the sworn affidavit from filing a complaint that alleges a violation of the applicable statutes or rules by the transferring agent upon discovery of the alleged violation by the professional bail bond company.

(H)(i) If the allegations of a complaint contesting the transfer are found by the board to have been established, no transfer of the license shall be accomplished until the agent accounts for, returns, or pays to the professional bail bond company contesting the transfer the property or money issued to or held in a fiduciary capacity by the agent.

(ii) If a complaint is filed contesting the sworn affidavit of the transferring agent, a specific finding of fact shall be made by the board concerning whether the affidavit or complaint contesting the affidavit was filed in good faith by the respective parties.

(iii) In the case of a finding of a lack of good faith, the party to whom the finding applies shall be subject to sanctions or disciplinary action pursuant to the provisions of § 17-19-210 and as provided by applicable rules.

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History

Acts of 1989, Act 417, § 1; Acts of 1995, Act 827, § 4; Acts of 1999, Act 567, § 1, eff. July 30, 1999; Acts of 2001, Act 1680, § 1, eff. Aug. 13, 2001; Acts of 2005, Act 858, § 1, eff. Aug. 12, 2005; Acts of 2005, Act 1960, § 1, eff. July 1, 2005; Acts of 2019, Act 315, § 1360, eff. July 24, 2019; Acts of 2019, Act 819, § 12, eff. May 1, 2021; Acts of 2021, Act 523, § 11, eff. May 1, 2021

17-19-203. Character references.

Each applicant for a professional bail bondsman license shall:

(1) File with the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board written statements from at least three (3) persons who know his or her character;

(2)(A) Be required to apply to the Identification Bureau of the Division of Arkansas State Police for a state and nationwide criminal records check to be conducted by the Federal Bureau of Investigation.

(B) The criminal records check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(C) The applicant shall sign a release of information to the board and shall be responsible to the Division of Arkansas State Police for the payment of any fee associated with the criminal records check.

(D) Upon completion of the criminal records check, the Identification Bureau shall forward all information obtained concerning the applicant to the board.

(E) At the conclusion of the criminal background check required by this subdivision (2), the Identification Bureau shall promptly destroy the fingerprint card of the applicant; and

(3) Provide other proof as the board may require that he or she is competent, trustworthy, financially responsible, and of good personal and business reputation and has not been convicted of a felony listed under § 17-3-102.

History

Acts of 1989, Act 417, § 1; Acts of 1995, Act 827, § 4; Acts of 1999, Act 1346, § 1, eff. July 30, 1999; Acts of 2019, Act 990, § 21, eff. July 24, 2019.

17-19-204. Examination.

(a) In order to determine the competence of each applicant for a professional bail bondsman license, the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall require every individual to submit to, and to pass to the satisfaction of the board, a written examination to be prepared by the board and appropriate to the transaction of bail bond business.

(b) Such an examination shall be held in a location and at such times as the board shall determine.

(c) Every individual applying to take a written examination shall, at the time of applying therefor, pay to the board a nonrefundable examination fee of twenty-five dollars ($25.00).

(d) If the application is approved, and if the nonrefundable examination fee is paid, an examination permit will be issued to the applicant. The permit will be valid for a period of ninety (90) days from the date of issuance. If the applicant does not schedule and appear for examination within that ninety-day period, the permit shall expire and the applicant may be required to file a new application, and shall pay another nonrefundable examination fee of twenty-five dollars ($25.00) before issuance of another examination permit to the applicant.

(e) If the applicant appears for examination but fails to pass the examination, the applicant may apply for reexamination. The reexamination fee shall be a nonrefundable fee of fifteen dollars ($15.00). The board may require a waiting period of eight (8) weeks before reexamination of an applicant who twice failed to pass previous similar examinations.

History

Acts 1989, No. 417, § 1; 1995, No. 827, § 4.

17-19-205. Letter of credit or certificate of deposit required.

(a)(1) An applicant for a professional bail bond company license shall file with the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board an irrevocable letter of credit from an Arkansas chartered bank or a federally chartered bank in Arkansas or a certificate of deposit.

(2)(A) The letter of credit or certificate of deposit shall be approved by the board as to form and sufficiency and shall be conditioned upon faithful performance of the duties of the licensee.

(B) The minimum amount for a professional bail bond company initially licensed on or before July 1, 1989, shall be twenty-five thousand dollars ($25,000).

(C) The minimum amount for a professional bail bond company initially licensed after July 1, 1989, shall be one hundred thousand dollars ($100,000).

(D) The minimum amount for a professional bail bond company initially licensed on or after July 1, 2009, shall be two hundred fifty thousand dollars ($250,000).

(E) Professional bail bond companies and professional bail bondsmen who were licensed under Act 400 of 1971 [repealed] before March 8, 1989, shall be required only to file or have on file with the board a letter of credit or certificate of deposit approved by the board as to form and sufficiency, in a minimum amount of five thousand dollars ($5,000), conditioned upon the faithful performance of the duties of

the licensee, provided they do not exceed the maximum amount of unsecured bond commitments as provided in § 17-19-304 [repealed].

(b) A letter of credit or certificate of deposit shall not be subject to termination or cancellation by either party in less than sixty (60) days after the giving of written notice thereof to the other parties and to the board.

(c) A termination or cancellation shall not affect the liability of the surety or sureties on a bond incurred before the effective date of termination or cancellation.

History

Acts 1989, No. 417, § 1; 1995, No. 827, § 4; 2009, No. 147, § 1.

17-19-206. Duties of board and clerks.

(a) Before issuance of a license under this chapter, applicants for a license shall satisfy the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board as to Arkansas residency, trustworthiness, and competence, as applicable, and shall otherwise comply with the conditions and qualifications set forth in this chapter.

(b)(1) The board may refuse to issue a license to an applicant who fails to comply with the provisions of this chapter or rule of the board.
(2) The board may refuse to issue a license to an applicant that has made a material misrepresentation in the application for a license.
(c) Upon the approval and issuance of a license under this chapter, the board shall give notice to the sheriff of each county in the state.
(d) Upon revocation or suspension of license, the board shall give notice to that effect to the sheriff in each county in the state.
(e) The board shall maintain a complete record of registrations, revocations, and suspensions, and the record shall be available to the sheriff and county clerk of each county of the state.
(f) Annually, the board shall furnish the sheriffs with a list of renewal licenses.

History
Acts of 1989, Act 417, § 1; Acts of 1995, Act 827, § 4; Acts of 2007, Act 674, § 1, eff. July 31, 2007; Acts of 2011, Act 95, § 1, eff. July 27, 2011.

17-19-207. Expiration and renewal.

(a) Every license issued pursuant to this chapter shall be for a term expiring on December 31 following the date of its issuance, and it may be renewed for the ensuing calendar year upon the filing of a renewal application.
(b) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board may refuse to renew a license for any cause for which issuance of the original license could have been refused or for the licensee's violation of any of the provisions of this chapter or the rules of the board.
(c) Every licensee shall be required to file a renewal application, the form and subject matter of which shall be prescribed by the board.
(d)(1) At the time of application for renewal of a professional bail bond company license, there shall be paid to the board for the company's renewal license a fee of one thousand dollars ($1,000).
(2) Each professional bail bondsman shall pay a fee of one hundred dollars ($100) for renewal of the license, except that if the applicant for renewal also holds a professional bail bond company license, then the applicant shall not be required to pay a renewal fee for a professional bail bondsman license.

History
Acts of 1989, Act 417, § 1; Acts of 1995, Act 827, § 4; Acts of 2019, Act 315, § 1361, eff. July 24, 2019.

17-19-208. Civil action — Administrative action.

(a)(1) If during the term of the letter of credit or certificate of deposit any licensee shall be guilty of misconduct or malfeasance in his or her dealings with any court or magistrate or officer or with any person or company in connection with any deposit or bail bond, the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board may maintain a civil action on the letter of credit or certificate of deposit, or may maintain an administrative action on any certificate of deposit. The board may recover for the use and benefit of the person or persons aggrieved a maximum amount of ten thousand dollars ($10,000). The provisions of this subdivision (a)(1) shall be in addition to all other remedies available to the aggrieved person and nothing in this subdivision (a)(1) shall be construed as limiting the liability of a professional bail bond company or a professional bail bondsman.

(2) The board may suspend the license of such a licensee until such time as the board recovers the full amount allowable or recovers for the benefit of the persons aggrieved the amount of loss or injury sustained pursuant to subdivision (a)(1) of this section, and until such time as the licensee has filed with the board an additional letter of credit or certificate of deposit in the required amount. The board shall promptly notify the licensee as provided in subdivision (b)(2) of this section.

(b)(1) When a final civil judgment for court-ordered bond forfeitures is entered as to a bail bond issued by the licensee by a court of competent jurisdiction in this state and the judgment is not paid within ninety (90) days thereafter, the court may send a copy of the judgment, duly certified by the clerk of the court, and proof of service of the judgment on the licensee in accordance with Rule 5 of the Arkansas Rules of Civil Procedure to the board, and then the board may promptly make a claim on the surety for payment of the allowable amount of the licensee's letters of credit on behalf of the court or shall withdraw the allowable amount of the licensee's certificates of deposit and shall transmit to the clerk of the court so much of the securities as are allowable. The board shall honor the judgments from the respective courts up to the limits set out in subdivision (a)(1) of this section.

(2) Upon receipt of the judgment and proof of notice of service on the licensee, the board may suspend the license of the licensee until such time as the judgment is paid or otherwise satisfied and until such time as the licensee has filed with the board another letter of credit or certificate of deposit in the required amount. The board shall promptly notify the licensee in writing by certified mail of the claims upon the licensee's letter of credit or certificates of deposit and shall also include a copy of the board's order of suspension.

(3) If the allowable amount of the letter of credit or certificate of deposit filed with the board is not sufficient to pay or otherwise satisfy the judgments as to bail bonds issued by the professional bail bond company in § 17-19-205(a), the board may promptly make a claim against the professional bail bond company on behalf of the court.

(c) In the event a professional bail bond company fails to file with the board the additional letter of credit or certificate of deposit to maintain the license within ninety (90) days from the effective date of the board's order of suspension as provided in subdivision (a)(2), (b)(2), or (b)(3) of this section, the board shall cancel the license of the licensee and shall promptly notify the licensee as provided in subdivision (b)(2) of this section.

(d) Upon the nonrenewal, cancellation, or revocation of any license hereunder, the board will release to the licensee the qualifying bonds or certificates of deposit filed with the board only upon receipt of written documentation from all the courts in all the counties in which the licensee engaged in business that all bonds issued by the licensee have been exonerated, and that no unpaid bond forfeitures remain outstanding, and that all civil judgments as to forfeitures on bonds issued by the licensee have been paid in full.

(e) If a company license has been revoked because of unpaid judgments, during the appeals process the company shall file a supersedeas bond in the amount of the unpaid judgments with the court in which the appeal is taken.

History

Acts 1989, No. 417, § 1; 1995, No. 827, § 4; 2001, No. 1679, § 1; 2009, No. 633, § 18.

17-19-209. Violations — Hearings.

(a) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall investigate any alleged violation of this chapter.

(b) Any person may file a complaint stating facts constituting an alleged violation of this chapter. The complaint shall be signed under penalty of perjury.

(c) All hearings held under this chapter shall be conducted in the same manner as hearings held by the board under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., unless otherwise stated in this chapter.

(d)(1)(A) With respect to the subject of any examination, investigation, or hearing being conducted by the board, the board or the Executive Director of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board, with board approval, may subpoena witnesses and administer oaths and affirmations, and examine an individual under oath, and may require and compel the production of records, books, papers, contracts, and other documents.

(B) A professional bail bondsman or professional bail bond company that fails to comply with this section may be subject to penalties under § 17-19-210.

(2) Subpoenas of witnesses shall be served in the same manner as if issued by a circuit court and may be served by certified mail.

(3) If any individual fails to obey a subpoena issued and served pursuant to this section with respect to any matter concerning which he or she may be lawfully interrogated, upon application of the board, the Pulaski County Circuit Court may issue an order requiring the individual to comply with the subpoena and to testify.

(4) Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(5) Any person willfully testifying falsely under oath to any matter material to any examination, investigation, or hearing shall upon conviction be guilty of perjury and punished accordingly.

(e) Not less than ten (10) days in advance, the board shall give notice of the time and place of the hearing, stating the matters to be considered at the hearing.

(f) The board shall allow any party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence and to examine witnesses, to present evidence in support of his or her interest, and to have subpoenas issued by the board to compel attendance of witnesses and production of evidence in his or her behalf.

(g)(1) A party may appeal from any order of the board as a matter of right and shall be taken to the Pulaski County Circuit Court by filing written notice of appeal to the court and by filing a copy of the notice with the board.

(2) Within thirty (30) days after filing the copy of a notice of appeal with the board, the board shall make, certify, and deposit in the office of the clerk of the court in which the appeal is pending a full and complete transcript of all proceedings had before the board and all evidence before the board in the matter, including all of the board's files therein.

History

Acts 1989, No. 417, § 1; 1995, No. 827, § 4; 1997, No. 973, § 6; 1999, No. 1477, § 1; 2003, No. 1174, § 1; 2011, No. 218, § 1.

17-19-210. Suspension and penalties — Review.

(a) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board, should it determine that the licensee or any member of a company which is so licensed committed an act listed in subsection (b) of this section, may:

(1) Suspend the license for up to twelve (12) months;

(2) Revoke or refuse to continue any license;

(3) Impose an administrative penalty in an amount not to exceed ten thousand dollars ($10,000); or

(4) Impose both a suspension of up to twelve (12) months and an administrative penalty in an amount not to exceed ten thousand dollars ($10,000).

(b) A licensee is subject to the penalties of subsection (a) of this section should it be found that the licensee:

(1) Violated any provision of or any obligation imposed by this chapter or any lawful rule or order of the board or has been convicted of a felony listed under § 17-3-102;

(2) Made a material misstatement in the application for license, in the application for renewal license, or in the financial statement which accompanies the application or renewal application for license as a professional bail bond company;

(3) Committed any fraudulent or dishonest acts or practices or demonstrated incompetency or untrustworthiness to act as a licensee;
(4) Charged or received, as premium or compensation for the making of any deposit or bail bond, any sum in excess of that permitted by law;
(5) Required as a condition of executing a bail bond that the principal agree to engage the services of a specified attorney;
(6) Signed, executed, or issued bonds with endorsements in blank, or prepared or issued fraudulent or forged bonds or power of attorney;
(7) Failed in the applicable regular course of business to account for and to pay premiums held by the licensee in a fiduciary capacity to the professional bail bond company or other person entitled thereto; or
(8) Failed to comply with the provisions of the laws of this state, or rule or order of the board for which issuance of the license could have been refused had it then existed and been known to the board.
(c) The acts or conduct of a professional bail bondsman who acts within the scope of the authority delegated to him or her shall also be deemed the act or conduct of the professional bail bond company for which the professional bail bondsman is acting as agent.
(d) If the board finds that one (1) or more grounds exist for the suspension or revocation of a license, the board may in its discretion request that formal charges be filed against the violator and that penalties set out in § 17-19-102 be imposed.
(e) If the board finds that one (1) or more grounds exist for the suspension or revocation of a license and that the license has been suspended within the previous twenty-four (24) months, then the board shall revoke the license.
(f) The board may not again issue a license under this chapter to any person or entity whose license has been revoked.
(g) If the board determines that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, a summary suspension of a license issued under this chapter may be ordered pending an administrative hearing before the board, which shall be promptly instituted.
(h) If a professional bail bond company license is so suspended or revoked, a member of the company or officer or director of the corporation shall not be licensed or be designated in any license to exercise the powers thereof during the period of the suspension or revocation, unless the board determines upon substantial evidence that the member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked.
(i) The action of the board in issuing or refusing to issue or in suspending or revoking any license shall be subject to review by the Pulaski County Circuit Court upon filing of an action therefor within thirty (30) days after the issuance of written notice by the board of the action taken.

History

Acts 1989, No. 417, § 1; 1995, No. 827, § 4; 2011, No. 97, § 1; 2019, No. 315, §§ 1362, 1363; 2019, No. 990, § 22.

17-19-211. [Repealed.]

17-19-212. Licenses.

Each applicant for an initial bail bondsman license who satisfactorily completes the examination and meets the other qualifications and requirements prescribed by law, including the completion of a minimum of eight (8) hours of education in subjects pertaining to the authority and responsibilities of a bail bondsman and a review of the laws and rules relating thereto, shall be licensed by the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board..

History

Acts of 1993, Act 499, § 1; Acts of 1997, Act 973, § 8; Acts of 1999, Act 567, § 3, eff. July 30, 1999; Acts of 2019, Act 315, § 1364, eff. July 24, 2019.

17-19-301. Premiums.

(a) With the exception of other provisions of this section, the premium or compensation for giving bond or depositing money or property as bail on any bond shall be ten percent (10%), except that the amount may be rounded up to the nearest five-dollar amount.

(b) The minimum compensation for giving bond or depositing money or property as bail on any bond shall be not less than fifty dollars ($50.00).

(c) If a bail bond or appearance bond issued by a licensee under this chapter must be replaced with another bail bond or appearance bond because of the licensee's violation of any provision of the laws of this state or any rule or order of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board, the licensee who violated the provision and who caused the replacement to be required shall pay all the premium amount for the replacement bond, in an amount not to exceed the amount of the original bond, without any contribution from the respective defendant or principal.

(d)(1)(A) In addition to the ten-percent bail or appearance bond premium or compensation allowed in subsection (a) of this section, and starting on July 1, 2013, each licensed professional bail bond company, sheriff, or keeper of the jail shall charge and collect as a nonrefundable administrative and regulatory fee for the board an additional ten dollars ($10.00) per bond fee for giving bond for every bail and appearance bond issued by the licensed professional bail bond company by or through its individual licensees, sheriffs, or keepers of the jail.

(B) The administrative and regulatory fees payable by these companies to the Bail Bondsman Board Fund for the support and operation of the board, and collected by the bail bond companies, sheriffs, or keepers of the jail as required by this section, shall be reported and filed with the board no later than fifteen (15) calendar days after the end of each calendar quarter, contemporaneous with the professional bail bond company's filing of its quarterly bail bond report with the board.

(C) A notarized annual reconciliation of all fees collected in the preceding calendar year for the Bail Bondsman Board Fund shall be filed by each licensed professional bail bond company at a time and on forms prescribed by the board.

(D) The Executive Director of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board may grant an extension for good cause shown upon timely written request.

(E) The administrative and regulatory fees payable by the bail bond companies, sheriffs, or keepers of the jail to the Bail Bondsman Board Fund shall not exceed ten dollars ($10.00) per bond, as required by this subchapter, exclusive of statutory licensure fees elsewhere in this chapter.

(F) Upon collection of the fees and any monetary penalties, the board shall deposit as special revenues:

(i) Sufficient fees and penalties directly into the Bail Bondsman Board Fund to provide for the personal services and operating expenses of the board under subsection (g) of this section; and

(ii) The remainder of all fees and penalties directly into the Domestic Peace Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence Commission.

(2)(A) Absent an extension granted by the executive director for good cause to a company and in addition to any license suspension or revocation, the executive director may order after notice and a hearing a professional bail bond company failing timely to report or pay the regulatory fee to the Bail Bondsman Board Fund by and through the executive director shall be liable to the Bail Bondsman Board Fund for a monetary penalty of one hundred dollars ($100) per day for each day of delinquency.

(B) The board may pursue any appropriate legal remedies on behalf of the Bail Bondsman Board Fund to collect any delinquent fees and penalties owed under this section as special revenues to the Bail Bondsman Board Fund.

(3) Upon collection of the regulatory fees and any monetary penalties payable to the Bail Bondsman Board Fund and assessed under this section, the executive director shall deposit all fees and penalties directly into the Bail Bondsman Board Fund as special revenues.

(4)(A) Upon failure of the bail bond company to remit the fees timely, the board may pursue civil legal remedies against the noncomplying bail bond company on behalf of the Bail Bondsman Board Fund to recover the balance of the fees and any penalties owed.

(B)(i) The board may also fine or suspend or revoke the license of any professional bail bond company failing to make a quarterly report or remit or pay timely the fees required by this section.

(ii) The board may promulgate rules for enforcement.

(5)(A) Other than sole proprietors licensed as professional bail bond companies, individual bail bondsmen are exempt from the duty of payment of the administrative and regulatory fees to the Bail Bondsman Board Fund, except that the individual licenses of individual employees of the professional bail bond company may be suspended or revoked by the board under the administrative procedures provided in this chapter if the individual licensee fails to comply with his or her duties in proper collection of the bail bond premiums earmarked for later payment to the Bail Bondsman Board Fund under this subsection, if he or she converts the moneys to his or her own use, or if he or she commits other infractions in regard to collection of such premium amounts.

(B) In those instances, the violations of the individual may in the board's discretion be attributed to the employing professional bail bond company for good cause shown, and the license of the employing professional bail bond company may be sanctioned by the executive director under the administrative procedures provided in this chapter.

(C) Further, upon criminal conviction of the individual bondsman for theft of property in connection with fraudulent conversion of those premium amounts due the Bail Bondsman Board Fund, the board shall revoke the individual's license and fine or suspend or revoke the license of the employing professional bail bond company if it assisted the individual in such fraudulent conduct.

(6)(A) For purposes of § 17-19-205 requiring the professional bail bond company's deposit of a letter of credit or certificate of deposit for the faithful performance of its duties, the company's payment of the administrative and regulatory fee required by this subsection is the duty of the licensee so as to allow the executive director to make a claim against the security deposit required in § 17-19-205 on behalf of the Bail Bondsman Board Fund for the balance of any owed and unpaid administrative and regulatory fees the professional bail bond company still owes to the Bail Bondsman Board Fund, and the executive director shall promptly make claims against security deposits on behalf of the Bail Bondsman Board Fund, up to the limit of the company's deposit for any remaining fee balance due, in the manner provided in this subchapter for any claim against the deposit required in this subchapter.

(B) Deposits held for the Bail Bondsman Board Fund, or fees or any moneys deposited into the Bail Bondsman Board Fund are not subject to any levy or assessment of any kind, including forfeiture claims, misconduct claims, or general creditor claims of the bail bond company, subject to garnishment or other creditors' remedies under Title 16 of this Code or other provisions of Arkansas law.

(e)(1) In addition to the premiums, compensation, and fees allowed in subsections (a) and (d) of this section, each sheriff, keeper of the jail, or bail bond company shall charge and collect twenty dollars ($20.00) as a nonrefundable fee for the Arkansas Public Defender Commission.

(2) All fees collected shall be forwarded to the board for deposit into the Public Defender User Fee Fund.

(3)(A) The Arkansas Public Defender Commission shall deposit the money collected into the existing account within the State Central Services Fund entitled “Public Defender User Fees”.

(B)(i) Three dollars ($3.00) of each fee collected under this section shall be remitted to each county in the state to defray the operating expenses of each county's public defender office.

(ii) The Arkansas Public Defender Commission shall remit quarterly to each county treasurer the county's portion of the fee collected under this section using the formula for the County Aid Fund under § 19-5-602.

(4) The fees collected by the bail bond companies required under this subsection shall be reported and filed with the Arkansas Public Defender Commission quarterly.

(5) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed by each bail bond company by February 15 on forms provided by the board.

(6) In addition to the bail or appearance bond premium or compensation allowed under this section and § 17-19-111, each licensed professional bail bond company, sheriff, or keeper of the jail shall charge and collect a processing fee of five dollars ($5.00) on each bail bond in order to defray the surety's costs incurred by the quarterly and annual reports to the Arkansas Public Defender Commission and to further defray the surety's costs incurred in the collection of all fees on behalf of the Arkansas Public Defender Commission.

(7) The board may pursue any appropriate legal remedy for the collection of any delinquent fees owed under this subsection.

(8) Upon collection of any fees and penalties, the board shall forward all fees and penalties to the Arkansas Public Defender Commission for deposit into the Public Defender User Fees Fund account within the State Central Services Fund.

(f)(1) In addition to the premiums, compensation, and fees allowed under this chapter, each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 shall charge and collect as a nonrefundable administrative bail bond fee for the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund an additional fee of six dollars ($6.00) per bail bond for giving bond for every bail bond issued by the professional bail bond company by or through its individual licensees, sheriffs, keepers of the jail, or any persons authorized to take bail under § 16-84-102.

(2) The fees and penalties collected under this subsection by a professional bail bond company, sheriff, keeper of the jail, or a person authorized to take bail under § 16-84-102 shall be forwarded to the board for deposit into the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund.

(3) The board shall deposit the money collected into the existing account within the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund to be used for the establishment and operation of alcohol abuse programs, drug abuse programs, crime prevention programs, and other related purposes in the counties.

(4) The fees required under this subsection and collected by the bail bond companies, sheriffs, keepers of the jail, or persons authorized to take bail under § 16-84-102 shall be reported quarterly and filed with the board.

(5)(A) Within fifteen (15) days after receiving the quarterly fees from the bail bond companies, sheriffs, keepers of the jail, or persons authorized to take bail under § 16-84-102, the board shall remit the fees collected under this subsection to the Arkansas Sheriffs' Association.

(B) The Arkansas Sheriffs' Association is the official organization of sheriffs in this state and is organized and exists under the Arkansas Nonprofit Corporation Act, §§ 4-28-201 -- 4-28-206 and §§ 4-28-209 -- 4-28-224.

(6) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed on forms provided by the board by each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 by February 15.

(7) The Department of Finance and Administration may pursue any appropriate legal remedy for the collection of delinquent fees and penalties owed under this subsection against an entity that has a duty to collect the fee under this subsection.

(8) The board shall promulgate rules to suspend, revoke, or take disciplinary action for noncompliance in failure to remit or pay fees under this section or in failure to report under this section.

(g)(1)(A) In addition to the premiums and fees allowed under this chapter, each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 shall charge and collect an additional fee of four dollars ($4.00)

per bail bond for every bail bond issued by the professional bail bond company by or through its individual licensees, sheriffs, keepers of the jail, or any persons authorized to take bail under § 16-84-102.

(B) The administrative bail bond fee is nonrefundable and shall be deposited into the Bail Bond Recovery Fund.

(2) The fees and penalties collected under this subsection by the professional bail bond company, sheriff, keeper of the jail, or a person authorized to take bail under § 16-84-102 shall be forwarded to the board for deposit into the Bail Bond Recovery Fund.

(3)(A) The board shall deposit the money collected into the existing account within the Bail Bond Recovery Fund.

(B) Use of the funds from the Bail Bond Recovery Fund shall be for professional bail bond forfeitures.

(4) The fees collected by the bail bond company, sheriff, keeper of the jail, or a person authorized to take bail under § 16-84-102 required under this subsection shall be reported quarterly and filed with the board.

(5) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed on forms provided by the board by each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 by February 15.

(6) The board may pursue any appropriate legal remedy for the collection of delinquent fees and penalties owed under this subsection against an entity that has a duty under this subsection to collect the fee.

(7) The board shall promulgate rules to suspend, revoke, or take disciplinary action for noncompliance in failure to remit or pay fees under this section or for failure to report under this section.

(h) A sheriff, keeper of the jail, and any bail bond company shall collect fees as required under §§ 14-52-111, 17-19-111, 17-19-301, and 21-6-307 and other fees as required by law.

(i)(1) Unless specified otherwise under subsection (e) of this section, the moneys collected by each bail bond company under subsection (e) of this section shall be deposited into the State Treasury to the credit of the Public Defender User Fees Fund within the State Central Services Fund.

(2)(A) Of the fee collected by each licensed professional bail bond company, three dollars ($3.00) shall be transferred to the various counties for the sole purpose of defraying the operating expenses of the local public defender's office.

(B) The remaining moneys collected shall be used to defray operating expenses of the Arkansas Public Defender Commission.

(3) On a quarterly basis, the Arkansas Public Defender Commission shall remit to each county its portion of the three dollars ($3.00) per bail bond fee collected based upon the following formula:

(A) Seventy five percent (75%) of the bail bond fee collected shall be distributed equally to all seventy-five (75) counties; and

(B) The remaining twenty-five percent (25%) of the bail bond fee collected shall be distributed per capita.

History

Acts of 1989, Act 417, § 1; Acts of 1993, Act 652, § 6, eff. March 24, 1993; Acts of 1995, Act 827, § 6; Acts of 1997, Act 1000, §§ 12 to 14, eff. July 2, 1997; Acts of 2003, Act 1778, § 1, eff. July 16, 2003; Acts of 2005, Act 1956, § 1, eff. Aug. 12, 2005; Acts of 2007, Act 190, § 1, eff. July 31, 2007; Acts of 2007, Act 730, §§ 2, 3, eff. July 31, 2007; Acts of 2013, Act 1283, §§ 2, 3, eff. Aug. 16, 2013; Acts of 2019, Act 871, § 18, eff. July 1, 2019; Acts of 2019, Act 315, § 1365, eff. July 24, 2019.

17-19-302. Collateral — Receipt required.

When a licensee accepts collateral, he or she shall give a prenumbered written receipt for it, and this receipt shall give in detail a full account of the collateral received. The licensee may perfect his or her lien on the collateral by any procedure available under the Uniform Commercial Code, § 4-1-101 et seq., or any other procedure provided for by law.

History

Acts 1989, No. 417, § 1; 1997, No. 973, § 9.

17-19-303. Bail bonds — Numbers — Report.

(a) Bail bonds shall be written on numbered forms.

(b) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall assign numbers for forms to professional bail bond companies and shall prescribe the method of affixing the numbers to the forms.

(c)(1) Each professional bail bond company shall file a bail bond report quarterly with the board.

(2) The report shall include the following information on each bail bond:

(A) The assigned number of the bond and current status of the bond, whether pending disposition or exonerated;

(B) To whom the bond was written;

(C) The date the bail bond was written;

(D) The defendant and the charges against the defendant;

(E) The court;

(F) The amount of the bail bond; and

(G) The portion of the bail bond that is secured and the unsecured portion.

History

Acts 1989, No. 417, § 1; 1995, No. 827, § 7.

17-19-304. [Repealed.]

17-19-305. Appearance bond.

Upon issuance of the license, a professional bail bondsman shall not issue an appearance bond exceeding the monetary amount for each recognizance which is specified in and authorized by the power of attorney filed with the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board until the board receives a duly executed power of attorney from the professional bail bond company evidencing or authorizing increased monetary limits or amounts for the recognizance.

History

Acts 1989, No. 417, § 1.

17-19-306. Posting of bondsmen list.

(a)(1) The chief law enforcement officers of any facilities having individuals or prisoners in their custody shall post in plain view in the facility housing those individuals or prisoners a list of registered bonding companies.

(2) The list shall be prepared by the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board and shall contain the names of the professional bail bond companies that are registered with the board for the purpose of being included on the list.

(3) This registration is for the purpose of being on the phone list in each county only.

(4)(A) Once a professional bail bond company has registered to be on the phone list, it shall not be necessary for it to register each year.

(B) The company shall keep its place on the list from year to year unless the company's license has been revoked, canceled, or not renewed.

(5) The list shall be posted in each municipality of the county.

(b)(1)(A) Professional bail bond companies shall be included on the list in the order in which they were initially registered with the circuit clerk pursuant to this chapter.

(B) However, a company with a revoked, canceled, or nonrenewed license shall be removed from the list.

(2)(A) On or before January 1, 2008, the circuit clerk of each county shall certify the list as it exists on the date of certification and forward the certified list to the board.

(B) After January 1, 2008, the board shall maintain the list and be responsible for registrations.

(3)(A) The order of the company names shall not change from year to year.

(B) However, a company with a revoked, canceled, or nonrenewed license shall be removed from the list.

(c) The list shall be prepared by the board pursuant to the following specifications:

(1) The list shall contain three (3) columns that shall be headed as follows:

(A) Bail bond company;

(B) Local address; and

(C) Telephone number;

(2) Each column shall contain the following information:

(A) Bail Bond Company. The professional bail bond company name and code number shall be typed in the first column on the left-hand side of the page, with the home office address, city, state, zip code, and home office telephone numbers directly under the company name in the same column. No more than two (2) telephone numbers shall be listed for each company;

(B) Local Address. The second column shall contain one (1) address for each bail bond company; and

(C) Telephone Number. The third column shall contain no more than two (2) telephone numbers per company, to be typed directly across the page from the local address, which appears in the second column; and

(3) A solid line shall be placed between the end of the listing of one company and the beginning of the listing of the next company so that each company is clearly identified.

(d) The list shall be prepared by the board in the format of the following example:

EXAMPLE

BAIL BOND COMPANY	LOCAL ADDRESS
1. Company Name # AZ Home Office Address City, State, Zip Home Office Phone Number(s) (2)	
2. Company Name # ZA Home Office Address City, State, Zip Home Office Phone Number(s) (2)	
3. Company Name # DX Home Office Address City, State, Zip Home Office Phone Number(s) (2)	

History

Acts 1989, No. 417, § 1; 1993, No. 402, § 1; 2001, No. 1139, § 1; 2007, No. 674, § 2.

17-19-401. Requirements.

(a) Each person licensed as a professional bail bondsman shall annually complete not less than six (6) hours of continuing education in subjects relating to the authority and responsibilities of a bail bondsman as a condition of renewing his or her license.

(b) The continuing education shall not include written or oral examinations.

History

Acts 1993, No. 499, § 2; 1999, No. 567, § 4; 2005, No. 1935, § 1.

17-19-402. Establishment of program — Schedule of fees.

(a)(1) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board on an annual basis shall solicit proposals from education providers.

(2) Upon review of the proposals, the board shall designate an entity or entities to establish an educational program for professional bail bondsmen that will enable bail bondsmen to meet the prelicense and continuing education requirements of § 17-19-212 and this subchapter.

(b) The board shall establish a schedule of set fees to be paid by each bail bondsman for the educational training.

History

Acts 1993, No. 499, § 4; 1997, No. 909, § 1; 2009, No. 491, § 1; 2011, No. 36, § 1; 2017, No. 565, § 22; 2017, No. 917, § 1.

17-19-403. [Repealed.]

19-5-1088. Bail Bondsman Board Fund

(a) There is established on the books of the Treasurer of the State, the Auditor of the State, the Chief Fiscal Officer of the State a fund to be known as the "Bail Bondsman Board Fund"

(b) This fund shall consist of those moneys collected under§§ 17-19-111 and 17-19-301 and other moneys from the collection of fees, there to be used exclusively for the operation of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

HISTORY:

Acts of 1997, Act 1248, § 40, eff. July 1, 1997; Acts of 2013, Act 1283, § 4, eff. Aug. 16, 2013.

19-6-820. Bail Bond Recovery Fund

(a) There is created on the books of the Treasurer of the State, the Auditor of the State, the Chief Fiscal Officer of the State a special revenue fund to be known as the "Bail Bond Recovery Fund".

(b)(l) All moneys collected under§ 17-19-301(9) shall be deposited into

the State Treasury to the credit of the fund as special revenues.

The fund shall also consist of any other revenues authorized by law.

(c) The fund shall be used exclusively for the recovery of forfeited professional bonds.

(d) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall promulgate rules concerning the disbursements of the fund.

(e)(l) The board shall promulgate rules to suspend, revoke, or take disciplinary action for non-compliance in failure to remit or pay fees under this section or for failure to report under this section.

(2) The Department of Finance and Administration may pursue any appropriate legal remedy for the collection of and remittance of the delinquent fees and penalties owed under this section against any entity that has a duty to collect or remit these fees.

HISTORY:

Act 2013, No. 1283, § 5.

21-6-307. Sheriffs.

(a) The following fees shall be charged by each of the sheriffs of the several counties of the State of Arkansas:

(1) For serving every summons, capias, scire facias, attachment, writ of garnishment, writ of injunction, or subpoena ..... $ 30.00

(2) For serving a writ of execution 100.00

(3) For commission for receiving and paying money on execution or process when lands or goods have been taken into custody, advertised, OR sold..... .... 10%

(4) For every return of a writ, summons, or subpoena, original or judicial..... .....20.00

(5) For executing a writ of inquiry 20.00

(6) For executing a certificate of purchase for real estate under execution 20.00

(7) For making, executing, and subscribing a sheriff's deed to be paid by purchaser..... 30.00

(8) For serving each order, notice, or rule of any court 30.00

(9) For serving each notice to vacate ..... 30 .00

(10) For advertising goods or lands for sale 30.00

(11) For returning each execution or attachment 20.00

(12) For advertising elections in each voting precinct 20.00

(13) For delivering voter registration books for each voting precinct...····· 20.00

(14) For serving warrant or order of arrest from any court.....50.00

(15) For taking and entering every bail or delivery bond 20.00

(16) For attending every trial of a criminal or civil case of confession in open court.....20.00

(17) For serving subpoena for special jurors..... 20.00

(b)(l) Seventy-five percent (75%) of all fees collected by the sheriff shall be paid into the county treasury in the manner provided by law, or to the person entitled to receive the money, or to his or her order, or to his or her attorney of record.

(2)(A) The remaining twenty-five percent (25%) of all fees collected by the sheriff shall be used by the sheriff to establish a special fund to be known as the communications facility and equipment fund.

(B) All funds so designated shall be invested by the sheriff in an interest-bearing account or certificate of deposit in one (1) or more banking institutions domiciled within the State of Arkansas and insured by the Federal Deposit Insurance Corporation.

(C) All sums paid into the communications facility and equipment fund by the sheriff may accumulate as to principal and interest until such time as the deposits or a portion thereof are needed by the sheriff to:

(i) Train operations staff;

(ii) Operate, equip, repair, or replace existing communications equipment;

(iii) Purchase additional communications equipment; or

(iv) Otherwise improve a communications facility or system for the sheriff's department.

(D) At the discretion of the sheriff, any funds not needed by the sheriff for any of the purposes under this subdivision (b)(2) may be transferred to the county general fund.

(c) The court clerk shall on or before the fifteenth day of each month transmit to the sheriff the fees collected under this section, and the sheriff shall dispose of the fees as provided in this section.

(d) If more persons than one are named in a writ, process, or subpoena, fees shall be charged for each named, unless parties reside or are employed in the same location.

(e) The fees provided shall be for serving of process from any of the several courts of the county.

(f) The fees set forth in this section shall be the sole and exclusive fees to be charged by the sheriffs of the several counties of this state for each of the services enumerated in this section.

HISTORY:

Acts of 1977, Act 399, § 1; Acts of 1981, Act 256, § 1; Acts of 1983, Act 717, § 1; Acts of 1985, Act 851, § 1; Acts of 1995, Act 662, § 1; Acts of 2001, Act 1427, § 1, eff. Aug. 13, 2001; Acts of 2003, Act 1338, § 1, eff. July 16, 2003; Acts of 2015, Act 741, § 3, eff. Jan. 1, 2016.

Chapter 7 - ADULT AND JUVENILE JAIL STANDARDS, MANAGEMENT SUMMARY, AND THE NECESSSITY FOR TRAINING AND POLICIES

Introduction

This chapter is designed to summarize the Arkansas Criminal Detention Facilities Board's minimum standards for various facilities. This information has been developed to provide the sheriff with a concise summary of the minimum standards and does not attempt to replace them, but only present them. If you need specific or detailed information regarding these regulations, or a copy of juvenile standards, please refer to the regulations or call or contact:

Director
Criminal Detention Facilities Review Committees
P.O. Box 3278
Little Rock, Arkansas 72203

DEFINITIONS

Throughout the Standards set forth herein, the following definitions shall apply:

A. Chief Executive: The elected or appointed person in whom rests the ultimate authority and responsibility for the administration and operation of the Criminal Detention Facility and for the care and confinement of detainees confined therein, and for all facility personnel.

B. Criminal Detention Facility as defined in Act 822 of 1983, means any institution in which inmates may be held for any length of time whatsoever, including county-city jails, regional jails and/or any type of temporary holding facility. "Criminal Detention Facility," "the facility," and "jail" are used herein interchangeably.

C. Detainee means any person confined for any length of time within a Criminal Detention Facility. "Inmate" and "detainee" are used interchangeably herein and refer to both those persons charged with criminal violations who are awaiting trial and those persons being confined after conviction.

D. Health Authority means a licensed physician, health administrator or agency. When this authority is other than a licensed physician, final medical judgment rests with a single responsible physician who is licensed in Arkansas and who has been so designated by the Chief Executive.

E. Use of the terms "he" and "him" within these standards shall also mean "she" and "her."

F. Use of the word "shall" within these standards connotes a mandatory standard.

G. Use of the word "should" within these standards connotes a recommended standard.

H. Intermediate/Long-term Facility means a criminal detention institution in which inmates may be held from time of intake through a one-year period.

I. Short-term Facility means any institution operated by a local unit of government in which persons may be incarcerated from time of intake up to sixty (60) days.

J. Twenty-four Hour or Overnight Facility means any institution operated by a local government in which persons may be incarcerated from time of intake up to twenty-four hours.

K. Book In Facility Only- means a two (2) to six (6) hour holding facility that must follow Jail Standards. This can be recommended by the Judicial Committee Members.

L. A Licensed Dietician means a person licensed by the Arkansas Dietetics Licensing Board.

ADMINISTRATION

SECTION 2-1001 ADMINISTRATOR

The Chief Executive of a Criminal Detention Facility shall designate an Administrator to oversee the operation of the facility, or shall assume that position himself. A person so designated shall be vested with the authority to control the operation of the facility and with the authority over all personnel employed by the facility or confined therein. The Administrator reports directly to the Chief Executive in his duties overseeing the facility. This Standard shall not apply in those cases where a Civil Service Commission retains the authority of appointing a Criminal Detention Facility Administrator.

SECTION 2-1002 INVOLVEMENT OF CHIEF EXECUTIVE OFFICER

The Chief Executive shall at all times be fully informed on all aspects of the Criminal Detention Facility. He shall be familiar with staff management procedure and inmate safety, security and welfare.

SECTION 2-1003 WRITTEN POLICIES

The Chief Executive shall prepare a written policy for all areas that Criminal Detention Facility Standards require a policy which fully describes the facility routine to include the philosophy under which the facility will be operated. This policy and guideline should be made available to the staff. Provisions should be made in the document for two-way communication between all members of the staff, inmates

and public figures, the latter communication being true only to the extent deemed advisable by the Chief Executive taking into consideration the necessity of preserving discipline among the inmates.

SECTION 2-1004 FISCAL MANAGEMENT

The Chief Executive, or his designated Administrator, shall be responsible for total fiscal management with the funds so provided by the governing body. This responsibility of necessity includes budgeting for needed equipment, supplies, manpower and related expense for complete jail management which conforms in every respect with Arkansas State law, local laws, and these Standards. The Chief Executive shall be held responsible for submission of an all-encompassing budget, to the appropriate approving authorities, and shall not be held responsible for failure of that approving authority to provide for sufficient personnel, equipment, supplies and other necessary operating expenses.

PERSONNEL STANDARDS

SECTION 3-1001. APPLICABILITY

These Standards are applicable to all personnel employed in a Criminal Detention Facility.

SECTION 3-1002 MINIMUM STANDARDS FOR PERSONNEL

A. When personnel are being hired, special inquiry shall be made into the character, morals and standing in the community of each applicant, giving special attention to details provided in the application, background investigation, and verbal responses to questioning of the applicant. The background investigation form required by Law Enforcement Minimum Standards or its equivalent shall be used and kept on file. A high school education or equivalent shall be required of all new employees. The attributes of physical fitness, experience, demonstrated aptitude and previous training and experience should be the prevailing factors in the hiring process. Personnel shall be free of a felony record.

B. Criminal Detention Facility personnel shall be at least 18 years of age on the date of hiring.

C. All new Criminal Detention Facility_personnel whose duties bring them into contact with inmates shall be required to meet the medical standards required by Law Enforcement Minimum Standards and evidence of each employee's ability to meet the medical and psychological_standards shall be kept on file in the facility.

D. Health examinations which include. at a minimum, an examination for communicable disease, shall be required of all Criminal Detention Facility personnel at the time of hiring, and should be required on at least an annual basis. Evidence of the examination shall be kept on file in the facility.

E. All criminal Detention Facility personnel shall successfully complete training equivalent to the basic jail course which is offered by the Arkansas Law Enforcement Training Academy or the Department of Correction within nine months of being hired. Personnel may be granted a three month extension within which to complete the training. Certified law enforcement officers are exempt as long as the Chief Executive certifies that the officer is knowledgeable of these Standards. If training cannot be completed within nine months (with a three month extension) from date of hire, the Chief Executive shall document in writing the attempts made to complete training. In no case shall training be deferred beyond two years. Each new employee shall work on a probationary status for a minimum of one year from date of hire.

F. The Chief Executive shall require all employees to complete16 hours of continuing education per year.

G. A personnel file shall be maintained for each employee by the Chief Executive or the Administration of each Criminal Detention Facility and the file shall include all data relative to the training and job qualifications of each person.

H. The Chief Executive shall be responsible for budgeting for sufficient personnel. The governing body shall be held responsible for sufficient funding to carry out in total all of the requirements contained in Chapter VIII, Section 8-1001, A-C. These three standards shall be met. A lack of funds shall not be considered in mitigation because the safety and security of the facility and personnel therein rests to a great degree on these standards.

The Chief Executive shall, when necessary to correct any personnel issues which prevent implementation of these standards, request in writing, immediate intervention and assistance from the governing body of the county or municipality and, if the request is denied, shall request immediately in writing, the necessary intervention and assistance from the Criminal Detention Facility Review Committee.

RULES OF CONDUCT FOR PERSONNEL

SECTION 4-1001. PERSONNEL ORIENTATION

The Chief Executive and/or the Administrator shall be responsible for seeing that each employee of the Facility is briefed on the care, treatment, custody and control of inmates. Prior to assuming duties that require care and control of the inmates, the employee must be familiarized with the facility's written rules of conduct that are published in a regulation manual provided to all employees and acknowledged as received.

SECTION 4-1002. RULES OF CONDUCT

Basic rules of conduct shall be in writing and provided to each employee. The Chief Executive is responsible for the content of the rules of conduct, but at a minimum those rules shall cover at least the topics listed below:

A. Each employee shall be responsible for knowing and complying with these rules of conduct

B. The personnel shall orient their personal conduct toward professionalism. When on duty, they should be properly groomed, neat and clean, mentally alert, and at all times should strive to present a high level of physical fitness. When off-duty, personnel are required to maintain a professional image.

C. All personnel must perform their duties in a polite and professional manner when interacting with inmates. They shall not use profane and/or abusive language, nor shall they in any manner abuse an inmate.

D. All personnel who are qualified to use defensive equipment shall know the location of all such equipment and shall be fully trained and certified on the procedures and justification for its use against an inmate.

E. If an emergency squad has been established by the Chief Executive, all personnel assigned to that squad will be fully trained for the prescribed duties within that squad and shall be expected to be fully familiar with all aspects of the operation.

F. Personnel shall be constantly alert for unusual incidents among the inmates, such as escape plots and attempts to smuggle contraband or prohibited items into the facility.

G. For security purposes, personnel shall not discuss management and operations of the facility with anyone except co-workers and superiors, and then discussions shall be conducted in a discrete manner.

H. Personnel shall not buy from, sell to, barter or trade in any manner with inmates, family or friends of an inmate or a representative of any of these persons. Personnel shall not accept gifts of any kind, regardless of value, from an inmate or his representative, family members or friends. The Chief Executive may allow an exception for Act 309 inmates in accordance with the Arkansas Department of Corrections 309 Policy.

I. Personnel shall not engage in distracting activities while on duty.

J. Personnel shall not recommend a specific bondsman or attorney or other services of this nature to an inmate. Personnel shall have approved material from which an inmate may seek services, and that material shall be made available to inmates and their counselors on request.

K. Personnel may use physical force against an inmate only to the extent that it is necessary in self-defense, to prevent injury or death to himself or another person; to quell an inmate who might grievously harm or injure himself, to end a disturbance or to prevent a riot or escape; to prevent destruction of public property; and to enforce a lawful command to which an inmate is reacting with physical resistance.

In the event of an incident involving the use of force, as in paragraph K. above, the involved personnel will make an immediate written report of all details to their immediate supervisor who will disseminate the report in accordance with the department's established administrative policies.

RECORDS AND COMMITMENT RECEIVING PROCEDURE

SECTION 5-1001. RECEIVING OF INMATES

The procedure used for booking an inmate into the facility should be professional, smooth, fast and courteous.

9-27-313—Taking a juvenile into custody

(a)(1) A juvenile only may be taken into custody without a warrant before service upon him or her of a petition and notice of hearing or order to appear as set out under § 9-27-312:

(A) Pursuant to an order of the circuit court under this subchapter;

(B) By a law enforcement officer without a warrant under circumstances as set forth in Rule 4.1 of the Arkansas Rules of Criminal Procedure; or

(C) By a designated person under § 12-18-1001 et seq.

(2) When any juvenile is taken into custody without a warrant, the officer taking the juvenile into custody shall immediately make every effort possible to notify the custodial parent, guardian, or custodian of the juvenile's location.

(b)(1) When any juvenile is taken into custody pursuant to a warrant, the officer taking the juvenile into custody shall immediately take the juvenile before the judge of the division of circuit court out of which the warrant was issued and make every effort possible to notify the custodial parent, guardian, or custodian of the juvenile's location.

(2) The judge shall decide whether the juvenile should be tried as a delinquent or a criminal defendant pursuant to § 9-27-318.

(c) When a juvenile is taken into protective custody under § 12-18-1001, the person exercising protective custody shall:

(1)(A) Notify the Department of Human Services and make every effort possible to notify the custodial parent, guardian, or custodian of the juvenile's location.

(B) The notification to the custodial parent, noncustodial parent, guardian, or custodian of the juvenile shall be in writing and shall include a notice:

(i) That the juvenile has been taken into foster care;
(ii) Of the name, location, and phone number of the person at the department whom the custodial parent, noncustodial parent, guardian, or custodian of the juvenile can contact about the juvenile;
(iii) Of the rights of the juvenile and the rights of the custodial parent, noncustodial parent, guardian, or custodian of the juvenile to receive a copy of any petition filed under this subchapter;
(iv) Of the location and telephone number of the court; and
(v) Of the procedure for obtaining a hearing; or
(2) Return the juvenile to his or her home.
(d)(1)(A) A law enforcement officer shall take a juvenile to detention, immediately make every effort to notify the custodial parent, guardian, or custodian of the juvenile's location, and notify the juvenile intake officer within twenty-four (24) hours so that a petition may be filed if a juvenile is taken into custody for:
(i) Unlawful possession of a handgun, § 5-73-119(a)(1);
(ii) Possession of a handgun on school property, § 5-73-119(b)(1);
(iii) Unlawful discharge of a firearm from a vehicle, § 5-74-107;
(iv) Any felony committed while armed with a firearm; or
(v) Criminal use of prohibited weapons, § 5-73-104.
(B) The authority of a juvenile intake officer to make a detention decision pursuant to § 9-27-322 shall not apply when a juvenile is detained pursuant to subdivision (d)(1)(A) of this section.
(C) A detention hearing shall be held by the court pursuant to § 9-27-326 within seventy-two (72) hours after the juvenile is taken into custody or if the seventy-two (72) hours ends on a Saturday, Sunday, or holiday, on the next business day.
(2) If a juvenile is taken into custody for an act that would be a felony if committed by an adult, other than a felony listed in subdivision (d)(1)(A) of this section, the law enforcement officer shall immediately make every effort possible to notify the custodial parent, guardian, or custodian of the juvenile's location and may:
(A)(i) Take the juvenile to detention.
(ii) The intake officer shall be notified immediately to make a detention decision pursuant to § 9-27-322 within twenty-four (24) hours of the time the juvenile was first taken into custody, and the prosecuting attorney shall be notified within twenty-four (24) hours.
(iii) If the juvenile remains in detention, a detention hearing shall be held no later than seventy-two (72) hours after the juvenile is taken into custody or if the seventy-two (72) hours ends on a Saturday, Sunday, or holiday, on the next business day;
(B) Pursuant to the Arkansas Rules of Criminal Procedure, issue a citation for the juvenile and his or her parents to appear for a first appearance before the court and release the juvenile and within twenty-four (24) hours notify the juvenile intake officer and the prosecuting attorney so that a petition may be filed under this subchapter; or
(C) Return the juvenile to his or her home.
(3) If a juvenile is taken into custody for an act that would be a misdemeanor if committed by an adult, the law enforcement officer shall immediately make every effort possible to notify the custodial parent, guardian, or custodian of the juvenile's location and may:
(A) Notify the juvenile intake officer, who shall make a detention decision pursuant to § 9-27-322;
(B) Pursuant to the Arkansas Rules of Criminal Procedure, issue a citation for the juvenile and his or her parents to appear for a first appearance before the circuit court and release the juvenile and notify the juvenile intake officer and the prosecuting attorney within twenty-four (24) hours so that a petition may be filed under this subchapter; or
(C) Return the juvenile to his or her home.
(4)(A) In all instances when a juvenile may be detained, the juvenile may be held in a juvenile detention facility or a seventy-two-hour holdover if a bed is available in the facility or holdover.
(B) If not, an adult jail or lock-up may be used, as provided by § 9-27-336.
(5) In all instances when a juvenile may be detained, the intake officer shall immediately make every effort possible to notify the juvenile's custodial parent, guardian, or custodian.
(e) When a law enforcement officer takes custody of a juvenile under this subchapter for reasons other than those specified in subsection (c) of this section concerning dependent-neglected juveniles or subsection (d) of this section concerning delinquency, he or she shall:
(1)(A)(i) Take the juvenile to shelter care, notify the department and the intake officer of the court, and immediately make every possible effort to notify the custodial parent, guardian, or custodian of the juvenile's location.
(ii) The notification to parents shall be in writing and shall include a notice of the location of the juvenile, of the juvenile's and parents' rights to receive a copy of any petition filed under this subchapter, of the location and telephone number of the court, and of the procedure for obtaining a hearing.
(B)(i) In cases when the parent, guardian, or other person contacted lives beyond a fifty-mile driving distance or lives out of state and the juvenile has been absent from his or her home or domicile for more than twenty-four (24) hours, the juvenile may be held in custody in a juvenile detention facility for purposes of identification, processing, or arranging for release or transfer to an alternative facility.
(ii) The holding shall be limited to the minimum time necessary to complete these actions and shall not occur in any facility utilized for incarceration of adults.
(iii) A juvenile held under this subdivision (e)(1)(B) must be separated from detained juveniles charged or held for delinquency.
(iv) A juvenile may not be held under this subdivision (e)(1)(B) for more than six (6) hours if the parent, guardian, or other person contacted lives in the state or twenty-four (24) hours, excluding weekends and holidays, if the parent, guardian, or other person contacted lives out of state; or
(2) Return the juvenile to his or her home.
(f) If no delinquency petition to adjudicate a juvenile taken into custody is filed within twenty-four (24) hours after a detention hearing or ninety-six (96) hours or, if the ninety-six (96) hours ends on a Saturday, Sunday, or a holiday, at the close of the next business day, after an alleged delinquent juvenile is taken into custody, whichever is sooner, the alleged delinquent juvenile shall be discharged from custody, detention, or shelter care.

12-18-1001 Protective custody generally

(a) A police officer, law enforcement, a juvenile division of circuit court judge during juvenile proceedings concerning the child or a sibling of the child, or a designated employee of the Department of Human Services may take a child into custody or any person in charge of a hospital or similar institution or any physician treating a child may keep that child in his or her custody without the consent of the parent or the guardian, whether or not additional medical treatment is required, if:

(1) The child is subjected to neglect as defined under § 12-18-103(14)(B) and the department assesses the family and determines that the newborn and any other children, including siblings, under the custody or care of the mother are at substantial risk of serious harm such that the children need to be removed from the custody or care of the mother;

(2) The child is dependent as defined in the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.; or

(3) Circumstances or conditions of the child are such that continuing in his or her place of residence or in the care and custody of the parent, guardian, custodian, or caretaker presents an immediate danger to the health or physical well-being of the child.

(b) However, custody shall not exceed seventy-two (72) hours except in the event that the expiration of seventy-two (72) hours falls on a weekend or holiday, in which case custody may be extended to the end of the next business day following the weekend or holiday.

(c) If the department assesses the health and safety of a child and determines that there is an immediate danger to the health or physical well-being of the child in the care, custody, or control of the legal parent, guardian, or custodian, the department shall place the child into protective custody and shall not direct or allow the legal parent, guardian, or custodian to place the child in the care, custody, or control of another person.

(d)(1) If the department assesses the health and safety of a child and determines that the child cannot safely remain in the care, custody, or control of the legal parent, guardian, or custodian without the implementation of a protection plan, the department may implement a protection plan that allows the child to remain in his or her place of residence and includes services to address the safety of the child.

(2)(A) If a protection plan is implemented under subdivision (d)(1) of this section, then the department shall reassess the health and safety of the child within thirty (30) days of the date on which the protection plan was implemented.

(B) If the department determines that a substantial risk of harm to the health and safety of the child remains after a reassessment under subdivision (d)(2)(A) of this section is performed, then the department shall file a petition for dependency-neglect.

(3) This subsection does not apply if the parent, guardian, or custodian is not the alleged offender and the parent, guardian, or custodian is not alleged to have failed to protect the child.

(e) If protective custody is taken by a juvenile division circuit court judge during juvenile proceedings concerning the child or a sibling of the child, the court shall:

(1) Appoint a dependency-neglect attorney ad litem for the child or children for whom protective custody was taken; and

(2) Designate a member of the court's staff, a party to the juvenile case, or a juvenile officer to immediately provide a copy of the order of appointment and all relevant information from the juvenile case to the attorney ad litem appointed by the court.

(f) The department shall:

(1) Assume custody of every child who is taken into custody under this subchapter;

(2) Assess the health and safety of each child who is taken into custody under this subchapter to determine whether to continue or release custody of the child;

(3) Release custody of a child who is taken into custody under this subchapter if the department determines that custody is no longer required under this section; and

(4) Notify the circuit court if the department releases custody of a child whom the circuit court has taken into custody under this subchapter.

(a) A police officer, law enforcement, a juvenile division of circuit court judge during juvenile proceedings concerning the child or a sibling of the child, or a designated employee of the Department of Human Services may take a child into custody or any person in charge of a hospital or similar institution or any physician treating a child may keep that child in his or her custody without the consent of the parent or the guardian, whether or not additional medical treatment is required, if:

(1) The child is subjected to neglect as defined under § 12-18-103(14)(B) and the department assesses the family and determines that the newborn and any other children, including siblings, under the custody or care of the mother are at substantial risk of serious harm such that the children need to be removed from the custody or care of the mother;

(2) The child is dependent as defined in the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.; or

(3) Circumstances or conditions of the child are such that continuing in his or her place of residence or in the care and custody of the parent, guardian, custodian, or caretaker presents an immediate danger to the health or physical well-being of the child.

(b) However, custody shall not exceed seventy-two (72) hours except in the event that the expiration of seventy-two (72) hours falls on a weekend or holiday, in which case custody may be extended to the end of the next business day following the weekend or holiday.

(c) If the department assesses the health and safety of a child and determines that there is an immediate danger to the health or physical well-being of the child in the care, custody, or control of the legal parent, guardian, or custodian, the department shall place the child into protective custody and shall not direct or allow the legal parent, guardian, or custodian to place the child in the care, custody, or control of another person.

(d)(1) If the department assesses the health and safety of a child and determines that the child cannot safely remain in the care, custody, or control of the legal parent, guardian, or custodian without the implementation of a protection plan, the department may implement a protection plan that allows the child to remain in his or her place of residence and includes services to address the safety of the child.

(2)(A) If a protection plan is implemented under subdivision (d)(1) of this section, then the department shall reassess the health and safety of the child within thirty (30) days of the

date on which the protection plan was implemented.
(B) If the department determines that a substantial risk of harm to the health and safety of the child remains after a reassessment under subdivision (d)(2)(A) of this section is performed, then the department shall file a petition for dependency-neglect.
(3) This subsection does not apply if the parent, guardian, or custodian is not the alleged offender and the parent, guardian, or custodian is not alleged to have failed to protect the child.
(e) If protective custody is taken by a juvenile division circuit court judge during juvenile proceedings concerning the child or a sibling of the child, the court shall:
(1) Appoint a dependency-neglect attorney ad litem for the child or children for whom protective custody was taken; and
(2) Designate a member of the court's staff, a party to the juvenile case, or a juvenile officer to immediately provide a copy of the order of appointment and all relevant information from the juvenile case to the attorney ad litem appointed by the court.
(f) The department shall:
(1) Assume custody of every child who is taken into custody under this subchapter;
(2) Assess the health and safety of each child who is taken into custody under this subchapter to determine whether to continue or release custody of the child;
(3) Release custody of a child who is taken into custody under this subchapter if the department determines that custody is no longer required under this section; and
(4) Notify the circuit court if the department releases custody of a child whom the circuit court has taken into custody under this subchapter.

12-18-1004—Notice when custody is invoked
In any case in which custody is invoked under this subchapter, the individual taking the child into custody shall immediately notify the Department of Human Services.

12-18-1006—Custody of children generally—Health and safety of the child
(a)(1) During the course of any child maltreatment investigation, whether conducted by the Department of Human Services or the Division of Arkansas State Police, the Department of Human Services shall assess the health and safety of a child who is subject to the child maltreatment investigation and determine whether or not custody under this subchapter is required.
(2) If the Division of Arkansas State Police is the investigative agency, it shall disclose information as needed for the Department of Human Services to assess the health and safety of a child subject to the child maltreatment investigation and determine whether or not custody under this subchapter is required.
(b) The child's health and safety shall be the paramount concern in determining whether or not to exercise custody under this subchapter.

12-18-1008. Removal from home–procedure
(a) If the Department of Human Services determines that custody under this subchapter is required, the Department of Human Services shall take steps to remove the child under custody as outlined in this chapter or pursuant to the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.
(b) After the Department of Human Services has removed the child, the child shall be placed in a licensed or approved foster home, shelter, facility, or an exempt child welfare agency as defined at § 9-28-402(12).
(c) No one, including the family, the Department of Human Services, the Division of Arkansas State Police, or local law enforcement shall allow a child to be placed in a nonapproved or nonlicensed foster home, shelter, or facility.

SECTION 5-1002. VERIFICATION OF DETAINMENT

Proper legal authority shall be the basis of committing a person to confinement in the Criminal Detention Facility. The Chief Executive shall establish procedures to ensure that all warrants, court orders of commitment, arrest reports, etc. are checked for completeness to include an authorized signature, and to identify the detainee as the subject in question as fully as circumstances permit.

SECTION 5-1003. JAIL LOG

A "jail log" or other detention record, which would provide accurate facility population records shall be kept, in which all pertinent information on every detainee is recorded. This log should contain characteristic and demographic data on the detainee, time/date of arrest, time/date of confinement, time/date of release, cause of confinement, classification of offense (felony or misdemeanor), arresting/confining officers, warrant or commitment data and all other data common to such action. Fingerprints should be obtained and furnished to the Arkansas State Police, or as required by law, on subjects who meet the criteria established by Arkansas law and who have not previously undergone that procedure by the arresting agency.

SECTION 5-1004. INMATE INFORMATION

In all cases where a person is being confined within the Criminal Detention Facility, the following information shall be obtained and maintained within the facility except that in those cases where the person being confined has been confined in the Detention Facility within the previous 30 days, then requirements A, B, C, E, and F are optional:

A. Previous criminal record;

B. Known habitat and habits of the subject;

C. Names and other identifying data of person(s) to be contacted in the event of an emergency.

D. Known or stated illnesses to include name of medication or special diet, if any, prescribed;

E. Names and identifying data of person(s) expected to visit or correspond with the inmate, including attorney(s), clergy or other professionals if the inmate freely provides that data.

F. Social security and/or driver's license numbers and car license numbers if obtained; and

G. Detailed descriptions of bruises, cuts, needle marks and/or apparent deformities of any type.

SECTION 5-1005. PERSONAL PROPERTY OF INMATES

All personal property from an inmate shall be properly accounted for on a written receipt, placed in an envelope or other container which clearly identifies by appropriate markings that the inmate is the owner of that particular property. The inmate shall be given a copy of the receipt and the property will be held under tight security. If property of an evidentiary nature is seized at the receiving/booking station, it should not be listed with the property that will be returned to the inmate when he is released on bond or otherwise. Such evidentiary property should be handled under the procedure established for evidence handling, and in such cases the evidence seized shall be documented and the inmate shall be given a copy of the evidence receipt.

SECTION 5-1006. SEARCH DURING RECEIVING OF INMATE

At the time an inmate is being searched, he should be checked for vermin, cuts, bruises, needle marks or any bodily injury and all findings shall be entered in the inmate's personal record. Any claims of illness or injury should be entered on the record and checked by professional medical personnel for accuracy if warranted. If an inmate appears to be ill, or is comatose or in a stupor, a medical doctor shall determine the condition of confinement. A vermin-infested inmate should be deloused by methods that have been recommended by Arkansas Department of Health.

SECTION 5-1007. STRIP SEARCHES

Strip searches shall be conducted in private by a person of the same gender as the inmate being searched except when circumstances make the presence of additional personnel necessary. The Chief Executive shall have a written strip search policy.

SECTION 5-1008. OPPORTUNITY TO CALL BONDING COMPANY

After the booking procedure is completed, the inmate shall be allowed to call, without expense, an Arkansas licensed bonding company.

SECTION 5-1009. INMATE ORIENTATION TO FACILITY RULES

The inmate should be oriented to the rules of the facility by permitting him to read plainly printed Facility Rules or by furnishing the inmate a copy of same.

SECTION 5-1010. ASSIGNMENT TO QUARTERS

At the conclusion of the admittance procedure the inmate shall be assigned suitable quarters, clean and adequate bedding and other items necessary for sanitation and proper hygiene.

SECTION 5-1011. DISCIPLINARY ACTIONS

Disciplinary actions taken against an inmate for any cause shall be reported in writing and kept in the inmate's record.

SECTION 5-1012. UNUSUAL OCCURRENCES DOCUMENTED IN WRITING

A written record of any unusual occurrence including, but not limited to, incidents of violence, force used against an inmate, injury to another person by the inmate, medical and/or dental treatment to include the result of such medical/dental treatment, disciplinary, and any other incident not named but of such importance that questions could later arise, shall be recorded in the private record file of the inmate concerned.

INMATE RIGHTS AND DISCIPLINARY PROCEDURES

SECTION 6-1001. WRITTEN DISCIPLINARY POLICY

The Chief Executive shall publish inmate rights and rules of conduct specifying disciplinary action and penalties which may result from infractions. This will be made available to all inmates through posting, having the inmate read from a *copy* or by giving each inmate a personal copy of the same. Provisions shall be made for those inmates who cannot read, and in every instance, there should be a clear understanding of the rights and rules. The receipt of this information shall be noted in writing by the inmate, or if refused, by the officer providing the information.

SECTION 6-1002. WRITTEN INMATE RIGHTS

Published inmate rights shall include the following:

A. All inmates of a Criminal Detention Facility shall have reasonable access to the courts through counsel whether appointed or retained, and in the event counsel has not been retained or appointed, the inmate should have reasonable access to law library materials.

B. All inmates have a right to have access to their attorney. Legal consultation(s) shall be permitted in private, shall be unmonitored, and occur at the place of detention on a reasonable basis.

C. Inmates shall not be segregated solely because of race, creed or color.

D. Inmates shall be permitted to worship or meditate at a reasonable time as prescribed *by* their faith; to have access to clergy of their faith, if available, and to adhere to dietary laws of their faith where possible.

E. All inmates have a right to humane treatment which provides for nourishing food, access to medical and dental care when indicated, clean living quarters, and a healthy, safe and secure

environment. Under no circumstances shall denial of regular meal service be used as a disciplinary measure.

F. Inmates have a right to be secure from self-incrimination and shall not be subjected to unlawful attempts to obtain statements and/or confessions while they are incarcerated.

G. At the time of intake, the inmate shall be afforded an opportunity to make a reasonable number of unmonitored phone calls, at the inmate's expense, in which he may contact an attorney of choice, and a member of his family.

SECTION 6-1003. WRITTEN DISCIPLINARY PROCEDURES

The Chief Executive shall establish a written policy regarding inmate disciplinary procedures which shall include the following:

A. A definition of minor inmate infractions and the appropriate disciplinary action;

B. A definition of major inmate infractions and the appropriate disciplinary action;

C. A procedure for written documentation of all disciplinary actions taken including the filing of criminal charges where appropriate;

A procedure for the due process handling of disciplinary actions which may include a hearing to be held within a reasonable time before a person designated by the Chief Executive.

INMATE SEPARATION

SECTION 7-1001 SEPARATION BY TYPE

A. Criminal Detention Facility shall provide for the separation by sight and sound, to the greatest extent possible, sound, of the following categories of inmates:

a. Female and male inmates;

b. Juveniles not under the protection of the Juvenile and Delinquency Prevention Act of the Arkansas Juvenile Code; and witnesses and civil inmates.

B. The Criminal Detention Facility shall provide for physical separation of the following categories of inmates to the greatest extent possible:

a. Inmates with special problems (alcoholics, narcotic addicts. mentally disturbed persons, physically ill or disabled persons, persons with communicable disease);

b. Inmates requiring administration segregation;

c. Pre-trial detainees and post-trial detainees; and

d. Misdemeanants and felons.

SECTION 7-1002 WORK RELEASE AND TRUSTEE INMATES

Work release and trustee inmates should be separated from other inmates to the greatest extent possible.

SECURITY

SECTION 8-1001 SECURITY REQUIREMENTS AND GUIDELINES

Every Criminal Detention Facility shall, have sufficient personnel to ensure that the facility is never, left unattended while a person is confined therein.

A. There must be personnel on duty twenty-four hours per day who are awake, alert and responsive to all situations that might arise. Staffing patterns must be approved by the Criminal Detention Facility Review Committee to ensure that an adequate number of personnel are on duty at all times. If both male and female inmates are confined, both male and female jail personnel shall be on duty.

B. Personnel must have audio contact with all inmates, either in person or by means of electronic monitoring devices, at all times. Personnel shall visually check at no more than sixty-minute intervals on an irregular basis, all security features of the cell area, make account of the inmates, watching for any unusual factors, and the results of this check shall be recorded, by the person making the check. In existing facilities where the jailer performs a dual function such as booking officer and dispatcher, the Criminal Detention Facility Review Committee shall assess whether the physical structure of the facility permits him to adequately perform both functions.

C. A female officer shall be on duty full time when females are confined, and she shall be required to make all the checks of the cells with female inmates as described in paragraph A above. Outside of an emergency situation, no male officer will enter the cell where female inmates are being held unless accompanied by a female officer. Outside of an emergency situation, no female officer will enter the cell where male inmates are being held unless accompanied by a male officer.

D. The Chief Executive shall publish a search procedure policy for control of contraband. The responsibility for the proper execution of that

search procedure policy shall rest upon the Administrator or the senior officer present.

E. The Chief Executive shall publish a policy to include guidance for all detention personnel in emergency situations. The plan shall establish a procedure to be followed in the event of escapes, riots, fire or smoke situations within the facility, inmate disturbances, assaults against officers or inmates, and should include any other circumstance that the Chief Executive believes to be of a threatening nature. All personnel shall familiarize themselves with the emergency plan and have a very clear understanding of their response and contribution to successfully implementing the plan.

F. No inmate shall exercise any authority over other inmates, be given access to records of other inmates, nor be permitted to have access to, or use of, keys that control facility security.

G. No person shall be permitted to enter the secure area of the Criminal Detention Facility while armed, except in the event of an emergency.

H. The Chief Executive shall establish a written policy to govern the control and use of fire arms/ammunition, chemical agents and any other security devices. Emergency equipment shall be kept on hand and all detention personnel will be trained in the use of such equipment with the training noted in their personnel file before being permitted access to, or use of, those items.

I. The Chief Executive shall establish a written policy to govern key control in the Detention Facility.

J. The Chief Executive shall establish a written policy addressing security measures for trusty-status inmates.

K. In existing facilities where the jailer performs a dual function, such as booking officer and dispatcher, the Criminal Detention Facility Review Committee shall assess whether the physical structure of the facility permits him to adequately perform both functions.

For those inmates who are under the age of 18 or have demonstrated behavior problems, detention personnel shall check at no more than thirty-minute intervals and the check shall be documented as in paragraph B above.

9-27-371.Punitive isolation or solitary confinement of juveniles—definitions.

(a) As used in this section:

(1) "Punitive isolation" means the placement of a juvenile in a location that is separate from the general population as a punishment; and

(2) "Solitary confinement" means the isolation of a juvenile in a cell separate from the general population as a punishment.

(b) Subject to subsection (c) of this section, a juvenile who has been placed or detained in a juvenile detention facility shall not be placed in punitive isolation or solitary confinement as a disciplinary measure for more than twenty-four (24) hours unless the:

(1) Placement of the juvenile in punitive isolation or solitary confinement is due to:

(A) A physical or sexual assault committed by the juvenile while in the juvenile detention facility;

(B) Conduct of the juvenile that poses an imminent threat of harm to the safety or well-being of the juvenile, the staff, or other juveniles in the juvenile detention facility; or

(C) The juvenile's escaping or attempting to escape from the juvenile detention facility; and

(2)(A) Director of the juvenile detention facility provides written authorization to place the juvenile in punitive isolation or solitary confinement for more than twenty-four (24) hours.

(B) The director of the juvenile detention facility shall provide the written authorization described in subdivision (b)(2)(A) of this section for every twenty-four-hour period during which the juvenile remains in punitive isolation or solitary confinement after the initial twenty-four (24) hours.

(c)(1) A juvenile who has been placed or detained in a juvenile detention facility shall not be placed in solitary confinement if the juvenile:

(A) Is pregnant;

(B) Has delivered a child prior to or within thirty (30) days of being detained;

(C) Is breastfeeding;

(D) Is suffering from postpartum depression or another medically verifiable postpartum condition; or

(E) Is caring for a child in a juvenile detention facility.

(2) This subsection does not apply if:

(A) The juvenile has engaged in an act of violence while incarcerated or detained that either resulted in or was likely to result in serious physical injury or death to another person; or

(B) There is reasonable cause to believe that the use of solitary confinement is necessary to reduce a substantial risk of imminent serious physical injury or death to another person, as evidenced by the juvenile's recent conduct while incarcerated or detained.

MEDICAL, DENTAL AND MENTAL HEALTH CARE SERVICES

SECTION 9-1001 WRITTEN PLAN REQUIRED

The Chief Executive shall establish a written plan for making all medical, dental and mental health services available for inmates. The Plan shall include the designation of a health authority.

SECTION 9-1002 HEALTH CARE DELIVERY REQUIREMENTS

For health care delivered in the facility, adequate space, equipment, supplies and materials shall be provided as designated by the health authority. A private examination room shall be provided in intermediate term facilities.

SECTION 9-1003 EMERGENCY AND SICK CALL PROCEDURES REQUIRED

The Chief Executive shall insure that an emergency and sick call procedure is instituted which extends medical, mental, and dental services to all inmates.

SECTION 9-1004 RECORDS REQUIRED

A written or electronic record shall be made and retained in the Criminal Detention Facility's file of all inmate medical and dental complaints and the prescribed medication or treatment. Place, date, time and nature of the health encounter shall be documented. No inmate shall have access to the medical record of any other inmate.

SECTION 9-1005 MEDICATION ADMINISTRATION

All medication prescribed for an inmate shall be administered in accordance with the instructions of the designated health authority. A complete record shall be retained in the inmate's file of all medication prescribed. A complete record of all medications administered to inmates shall be kept, and where possible, the inmate shall acknowledge the receipt of medication by signature or initial. All medication shall be kept in a locked storage area. Medication administration will be the responsibility of the Chief Executive or his designee. No inmate shall be allowed to administer medications to another inmate.

SECTION 9-1006. EMERGENCY NOTIFICATION POLICY

Written policy established by the Chief Executive shall specify the process by which those individuals so designated by the inmate are notified in case of serious illness or injury.

SECTION 9-1007 TRANSFER OF INMATE RECORDS TO OTHER FACILITIES

In accordance with HIPAA, copies of the medical record maintained by the Criminal Detention Facility shall be routinely sent to any facility to which an inmate may be transferred.

SECTION 9-1008 PSYCHIATRIC EVALUATION

Inmates who exhibit strange or abnormal behavior should be referred for psychiatric or psychological evaluation as soon as possible. Full records of referrals should be retained, in accordance with HIPAA.

SECTION 9-1009 EMERGENCY AND LIFE SAVING TECHNIQUES AND EQUIPMENT REQUIRED

A first aid kit and an automatic external defibrillator (AED) shall be available in a secure, but easily accessible, location within the Detention Facility. A medical training program or suitable alternative shall be established for Detention Facility personnel, such as first aid, CPR or any other available programs that will aid in the recognition of signs and symptoms of and knowledge of action required in potential emergency situations. All personnel shall maintain certification for life saving techniques and devices.

SECTION 9-1010 INMATE TESTING PROHIBITED

The Chief Executive shall establish a written policy which prohibits the use of inmates for medical, pharmaceutical, or cosmetic experiments. The policy does not preclude individual treatment of an inmate based on his/her needs for a specific medical procedure which is not generally available.

SECTION 9-1011 REQUIREMENTS FOR USE OF RESTRAINTS

The Chief Executive shall establish a written policy providing for the appropriate use of restraints upon inmates who demonstrate the need for restraints because of medical or psychiatric conditions. The policy should, at a minimum, require documentation of the use of restraints for such inmates and the documentation shall be retained in the inmate's medical record.

SECTION 9-1012 DETOXIFICATION PROCEDURES

Detention Facility personnel shall not engage in a detoxification process of an inmate, except to the extent authorized in writing by the designated health authority. The Chief Executive shall establish, with the help of the designated health authority, a detoxification plan.

SECTION 9-1013 WRITTEN DELOUSING PROCEDURES REQUIRED

The Chief Executive shall establish a written procedure for delousing inmates and the facility. This procedure shall be established in accordance with the recommendations from the Arkansas Department of Health.

SECTION 9-1014 TUBERCULOSIS SCREENING REQUIRED

All Detention Facility personnel and all inmates shall receive tuberculosis screening and tuberculosis prevention, in accordance with Arkansas Department of Health rules pertaining to the control of tuberculosis.

SECTION 9-1015 COMPLIANCE WITH HIPAA REQUIRED

All medical, dental, and mental health services shall be provided in accordance with HIPAA.

MAIL, COMMUNICATION AND VISITATION

SECTION 10-1001 VISITOR'S LOG

A visitor's log shall be maintained. The Chief Executive shall determine what data should be gathered on visitors and may deny visitation if said data is not provided.

SECTION 10-1002 VISITATION PRIVILEGE

Visitation is a privilege that can be revoked by the Chief Executive when he believes it is in the best interest of the security and safety of the Criminal Detention Facility.

SECTION 10-1003 RULES REQUIRED FOR SEARCHES IN VISITATION AREAS

The Chief Executive should formulate rules for searching visitors, inmates and visitation areas.

SECTION 10-1004 WRITTEN POLICY REQUIRED FOR INCOMING CORRESPONDENCE

The Chief Executive shall establish a written policy governing correspondence by inmates. Indigent inmates should be provided a minimum of two first class stamps per week.

SECTION 10-1005 WRITTEN POLICY REQUIRED FOR INSPECTION OF MAIL

The Chief Executive shall establish a written policy for inspection of incoming mail and packages, in order to intercept cash, checks, money orders and other contraband items. Items seized shall be properly receipted and copy of same furnished to the inmate. The policy should include a provision that states that mail will not be held for more than 24 hours, excluding holidays and weekends.

SECTION 10-1006 WRITTEN POLICY REQUIRED FOR OUTGOING INMATE CORRESPONDENCE

The Chief Executive shall establish a written policy to provide for an inmate to send sealed letters to courts, officials of the confining authority, counsel, government officials, administrators of grievance organizations and parole or probation authorities. Letters to and from such cited persons or agencies may be opened for contraband inspection but only in the presence of the inmate.

SECTION 10-1007 INSPECTION GUIDELINES

Letters or packages to or from inmates shall be opened and inspected for contraband but may not be censored. Letters may be read if there is reasonable suspicion that there is a threat to order and security, or that the letter or package is being used to further illegal activity. If a letter or package is rejected for delivery, the inmate should be so notified unless notification would infringe on security or law enforcement activity.

SECTION 10-1008

A telephone shall be made available for inmate usage to notify family and legal counsel at time of incarceration. The Chief Executive shall establish policy for other telephone usage.

SECTION 10-1009 COMMISSARY

If commissary items are provided, they shall be made available at locally established retail prices.

FOOD SERVICE

SECTION 11-1001 GENERAL GUIDELINES

Inmates shall be offered three meals daily, two of which should be hot meals. The menus for these meals will be reviewed once or more annually by a Registered or Certified Dietician using both the recommended dietary allowances and the basic four food groups for guidance. The minimum daily calorie level offered for sedentary inmates shall be 2300 calories, and the minimum calories for active inmates shall be 2700 calories. Meals should be served at specific planned times, with a designated person responsible for service. Food should be served promptly after it is prepared to insure that hot food is served hot and cold food is served cold. Coffee, tea or milk or a suitable substitute as well as the appropriate condiments will be served with each meal.

SECTION 11-1002 FOOD SERVICE RECORDS

Records of the food actually served in the Criminal Detention Facility should be preserved for at least twelve months and shall be checked by a Registered or Certified Dietician once or more annually to insure that the food actually served makes the calories and other nutrients (protein, iron, vitamins A and C) available to inmates.

SECTION 11-1003 CONFORMANCE TO DEPARTMENT OF HEALTH RULES AND REGULATIONS

When provided, kitchen facilities and/or any other entity providing food service to the facility shall conform to the Arkansas Department of Health rules and regulations pertaining to food service establishments. Food handlers must meet current requirements of the Arkansas Department of Health.

SECTION 11-1004 SPECIAL DIETARY NEEDS

Special or therapeutic diets as recommended by the Facility's Health Authority shall be provided for inmates. Special diets are provided for inmates whose religious beliefs require the adherence to religious dietary laws.

SECTION 11-1005 DINING AREAS

Food may be fed to inmates in their cells, day room, corridors, or in a dining room, but wherever served, the area shall be cleaned immediately afterwards and trash removed to an outside dumpster or a garbage collection area.

SECTION 11-1006 TWENTY-FOUR HOUR AND OVERNIGHT FACILITIES

Twenty-four Hour/Overnight Facilities are exempt from sections 11-1001, 11-1002 and 11-1003,but they shall provide three meals at regular intervals and maintain records of the foods actually served for at least 12 months.

SECTION 11-1007 FOOD SERVICE INSPECTION RECORDS

Records of food service related inspections from any and all city, state, or federal agencies shall be kept for two years.

SECTION 11-1008 OUTSIDE FOOD

The Chief Executive shall not permit any food to be brought into the Facility except that which is furnished by the Facility, or purchased through the canteen. Only the Chief Executive can make an exception to this rule and he shall exercise rigid controls to insure that the Facility does not become infested or unsanitary.

INMATE WORK RULES

SECTION 12-1001 PRE-TRIAL DETAINEES

Pre-trial detainees are required to work, but only to the extent that they must keep their living quarters clean. If they volunteer to perform other tasks, they shall be supervised closely and utilized on tasks commensurate with the trust that the Chief Executive deems appropriate to the individual concerned.

SECTION 12-1002 SENTENCED INMATES

Sentenced inmates may be assigned to work programs that the Chief Executive deems appropriate.

SECTION 12-1003

The Chief Executive Officer is given broad discretion

A. "**Chief Executive Officer**" shall mean the Sheriff of the County if the criminal detention facility is owned or operated by a county of this State, or the Chief of Police if the criminal detention facility is owned or operated by a municipality of this State.

B. "**Legislative Body**" means the quorum court of the county in which the county-owned or operated criminal detention facility is located, or if the criminal detention facility is owned or operated by a municipality, it shall then mean whatever body is authorized to adopt ordinances for that jurisdiction
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C. "**Work-Release**" shall mean programs under which inmates selected to participate in such programs may be gainfully employed or attend schools outside of a jail.

D. Any person who may be convicted of a misdemeanor by any court in this State, and who shall be committed to a jail to serve a sentence imposed by any court of competent jurisdiction and/or in default of the payment of the fine and costs adjudged against him, may be released for the purpose of participation in Work-Release programs under the conditions and procedures contained in Section E, below.

E. The Chief Executive may allow inmates described in Section D, above, to participate in "Work Release" programs in accordance with rules, regulations, and procedures adopted by the Chief Executive. Under any "Work-Release" program, earnings by the inmate shall be paid directly to the Chief Executive and applied as follows:

(1) The Chief Executive shall retain an amount to be established by the Legislative Body which will reasonably compensate the Chief Executive for the cost of feeding and housing such inmate.

(2) The Chief Executive shall determine if the inmate has persons depending upon him for their support and may remit to such persons that portion of the earnings which the Commissioner considers reasonable.

(3) The Chief Executive shall determine if the inmate has created victims of his criminal conduct who are entitled to restitution or reparations for physical injury or loss or damage to property, and may remit to such victims that portion of the earnings which the Chief Executive considers reasonable; provided, however, that in no case shall the portion of earnings remitted for restitution be in excess of twenty-five percent (25%) of the inmate's income remaining after deductions for the cost of care and custody and family support in Subsections (1) and (2). The names and addresses of the victims and the amount of restitution to be paid shall be provided to the Chief Executive Officer by certificate of the trial court in which the defendant was confided.

SAFETY

SECTION 13-1001. GENERAL PROVISIONS

While the following sections deal with specific fire and safety measures, this chapter is not intended to be all-inclusive in regard to the safety and welfare of the individual inmate. Because potential hazards are too numerous to detail, it is the responsibility of the Chief Executive to establish rules, regulations and inspection procedures for the facility to ensure, to the greatest degree possible, the health, safety, and well-being of the inmate.

SECTION 13-1002. ANNUAL FIRE INSPECTION REQUIRED

Pursuant to the fire code, the Chief Executive shall have the Criminal Detention Facility inspected at least annually by the state or local fire marshal for fire prevention and safety measures, and a record of such inspections will be kept on file within the Facility. A copy of the inspection shall be sent to the Coordinator's Office. The fire sprinkler system and fire safety equipment shall be inspected annually; vent hoods shall be inspected on a biannual basis. Copies of the inspections sent to the Coordinator's Office shall contain these items.

SECTION 13-1003 WRITTEN FIRE PLAN REQUIRED

A written fire plan concerning fire prevention shall be maintained to insure the safety of the inmates, staff and visitors. The plan should detail staff responsibilities, cover evacuation procedures, and through a posted map or drawing show locations of exits, breathing apparatus, fire hoses or fire extinguishers, evacuation routes, and any other features pertinent to fire safety. All personnel will be briefed as to location and use of emergency keys. Annual fire drills shall be conducted and shall be included in the written fire plan.

SECTION 13-1004 WRITTEN EMERGENCY PLAN REQUIRED

A written emergency plan which covers emergencies other than fire shall be maintained and all personnel shall be trained and knowledgeable of their duties should an emergency occur. Evacuation procedures shall be detailed and duties assigned to all personnel and shall include the location of keys to emergency exits and instructions for usage.

SECTION 13-1005 EXIT SIGNS

Facility exits must be plainly and permanently marked. All corridors and walkways leading to or from an exit shall be kept free of refuse, litter and obstacles of all types which might cause problems under emergency conditions.

SECTION 13-1006 REQUIREMENTS FOR STORAGE OF FLAMMABLE AND TOXIC MATERIALS

Storage of flammable, toxic and caustic materials must conform to local, state and national laws or regulations. House cleaning supplies shall be kept in a secure and uncluttered closet or locker provided for those materials and shall not be permitted in cells or hallways except when being used.

SECTION 13-1007 INMATE USE OF TOOLS

When an inmate is permitted to use any tool, all safety rules shall be observed, and any safety equipment recommended such as goggles and guards for machines shall be available and used.

SECTION 13-1008 FIREFIGHTING EQUIPMENT

Basic firefighting equipment, to include at least chemical and dry type fire extinguishers, plus emergency compressed air breathing apparatus, shall be maintained in a secure but accessible storage area. All personnel shall be trained on the proper use of all equipment.

INMATE SERVICES AND PROGRAMS

SECTION 14-1001 APPLICABILITY

This Chapter applies to all Facilities holding inmates in excess of fourteen days.

SECTION 14-1002 WRITTEN POLICY REQUIRED

The Chief Executive shall establish written policy to provide recreation and leisure time activities, library services, social and religious services.

SECTION 14-1003 INMATE PARTICIPATION OPTIONAL

The policy shall provide an option for inmates to decline to participate in the activities without prejudicial results.

SECTION 14-1004 COUNSELING SERVICES

The policy should provide for counseling services, such as substance abuse, if required.

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SECTION 14-1005 INMATE EXERCISE

Exercise outside the cell shall be made available to all inmates on a daily basis for one hour, provided the inmate(s) elect to participate. This standard is subject to the discretion of the Chief Executive in situations where security may be jeopardized.

EXISTING FACILITIES

SECTION 15-1001 DEFINITION

For the purpose of this chapter, existing facilities shall be defined as a facility which was in operation or a facility which had design plans approved by a Criminal Detention Facilities Review Committee prior to the date of this standard's adoption.

SECTION 15-1002 INSPECTIONS

Onsite inspections of detention facilities shall be the duty of the Criminal Detention Facilities Review Committee with the assistance of the Coordinator and the Committee shall use these Criminal Detention Facility Standards along with the Coordinator’s Office official forms to inspect Criminal Detention Facilities.

SECTION 15-1003 DOCUMENTATION

Copies of all reports and documents pertaining to detention facilities shall be sent to the office of the Coordinator. A master file of inspection reports on each facility shall be maintained by the Criminal Detention Facility Review Committee at the County Clerk's Office in the county in which the facility is located within thirty days following an inspection, a written report of each inspection shall be made to the chief circuit judge for the judicial district within which the facility is located. A copy of the report should also be sent to the county judge or the governing body of the political subdivision whose facility is the subject of the report.

SECTION 15-1004 ENVIRONMENTAL SYSTEMS, GENERAL

Lighting will be appropriate to the activity for the area in question. Air circulation shall be provided and temperature shall be between 65° and 85° Fahrenheit. All mechanical, plumbing, electrical, life safety and security control equipment and systems shall be secure from unsupervised inmate access. An automatic cut-in generator shall be provided with capacity to operate electrical equipment and minimum illumination inside and around the facility.

SECTION 15-1005 FIRE DETECTION

Fire, smoke, and products of combustion detection equipment shall be provided in accordance with the latest adopted state fire code. Said equipment will be battery powered or part of the emergency power system.

SECTION 15-1006 DISABLED ACCESSIBILITY

There shall be facilities available in which to house and care for disabled inmates. Readily available facilities which would be a suitable alternative solution are acceptable in meeting this requirement.

SECTION 15-1007 EXITS

There shall be at least two identifiable exits from each housing area to permit the prompt evacuation of inmates and staff under emergency conditions. Required exits should lead directly to a hazard-free area where adequate supervision can be provided. The two exits must be as remote from each other as possible.

SECTION 15-1008 INTAKE, BOOKING AND RELEASE AREAS

The intake/booking and release area should be located inside the security perimeter, and have the following components:

A. Booking area.
B. Access to drinking water.
C. Access to shower facilities. (24Hour/Overnight Facilities are exempt.)
D. Secure storage for inmates' personal property.
E. Temporary holding area with seating.
F. Operable toilets and wash basins.

Provisions should be made to insure the safety of inmates and personnel and security of the facility. The intake area may also be used to process inmates for release.

SECTION 15-1009 ALCOHOL UNIT

Alcohol units shall be designed for detention of intoxicated persons during the sobering process ONLY, and these inmates shall be moved to cells or other areas as soon as they can properly care for themselves. Alcohol units shall be equipped with the following:

A. Seating.
B. A detention facility type toilet.
C. A wash basin

SECTION 15-1010 GENERAL HOUSING REQUIREMENTS

All rooms or cells shall have, at a minimum, access to the following facilities:

A. A toilet above floor level, a wash basin, and drinking water, available without staff assistance.
B. Shower facilities (24 Hour/Overnight Facilities are exempt).
C. Hot and cold running water, and
D. A bed above floor level.

SECTION 15-1011 SINGLE CELLS

The minimum square foot area of single cells will be 50-square feet per inmate. If cell confinement exceeds 16 hours per day, 70-square feet per cell will be provided. (24-Hour/Overnight Facilities are exempt from this requirement.) Cell space is measured from interior to interior wall less the space occupied by plumbing chases and columns. Cell space includes the space occupied by bed, plumbing fixtures, entrances and exits.

SECTION 15-1012 MULTIPLE OCCUPANCY HOUSING

Where used, multiple occupancy sleeping rooms shall house no more than 50 inmates. These areas shall provide:

A. The ability for observation by staff.
B. A minimum floor area of 35-square feet per inmate in a sleeping area.
C. Beds above floor level.

SECTION 15-1013 SPECIAL HOUSING

There shall be at least one cell or room for ill, mentally disoriented, injured, non-ambulatory, or administrative segregation inmates which provides for staff observation. Readily available alternative facilities may be used to meet this requirement.

SECTION 15-1014 ACTIVITY ROOMS

Activity rooms in the facility must have sufficient air circulation and temperature and lighting for the activities being performed and access to toilets and wash basins within the area. These areas include multi-purpose rooms, recreation areas or program areas for inmates and/or work areas for staff. Where practical, activity rooms should have natural light provided by skylight or windows. (24-Hour/Overnight Facilities are exempt.)

SECTION 15-1015 LINEN STORAGE

Space shall be provided to store and issue facility clothing and bedding, and to provide for the exchange of personal and facility clothing when inmates appear in court or are to be released. Storage space for clean bedding and facility clothing shall be convenient to inmate housing areas. (24 Hour Facilities are exempt from clothing storage.)

SECTION 15-1016 EXERCISE SPACES

Inmates incarcerated in excess of 14 consecutive days shall have access to outdoor or indoor exercise areas. Indoor exercise programs shall be in spaces in which lighting, temperature and ventilation are appropriate for the activity to be conducted. Hallway areas or bullpen areas in front of cells or rooms will not be considered exercise space.

SECTION 15-1017 SECURE STORAGE

Space shall be provided for the secure storage of chemical agents, restraining devices and related security equipment. The equipment shall be located in an area which is accessible to authorized personnel only. Separate and secure space will be provided for evidence and contraband.

Cleaning equipment and supplies shall be stored in a supervised area.

SECTION 15-1018 ADMINISTRATIVE SPACE

Adequate space will be provided for general administrative and staff functions.

SECTION 15-1019

Adequate space and equipment will be provided for food preparation and/or handling.

SECTION 15-1020 VISITATION AND CONSULTATION AREA

The area for visiting by the public shall be outside the security perimeter, visiting area for the inmate shall be inside the security perimeter. The visiting area shall be acoustically treated to reduce noise. These areas may also be used as private consultation rooms for law enforcement officers, attorneys, clergy, etc. Optional contact visitation spaces may be provided.

NEW CONSTRUCTION

SECTION 16-1001 DEFINITION

For purposes of this chapter "new construction" shall be defined as: any new Facility; any area of construction added beyond the outside walls and/or roof of an existing facility; and any area of construction within an existing facility affecting more than 50% of the existing Facility's floor area. (For purposes of this chapter, "remodeling" is defined as construction within the existing facility's structure affecting 50% or less of the existing facility's floor area.) The intention is to have all new areas of construction or remodeling either inside or outside an existing facility meet the specifically applicable section or sections as outlined in this chapter. For example, if plans are made to add a visitation or consultation area to an existing facility, the construction must be done in compliance with Section 16-1027. Likewise, if plans are made to convert existing space into a cell area, the new cell construction must meet the requirements of this chapter.

SECTION 16-1002 PLAN REVIEW

All design plans shall be presented in person to the Coordinator by the facility's architect or the architect's representative. The design plans shall also be accompanied by a written narrative explaining detailed compliance with these standards. The Coordinator will make himself available to assist the requesting facility with review of plans for standard conformity, and the Coordinator can suggest changes, but the Coordinator has no official approval capacity.

SECTION 16-1003 PLAN APPROVAL

The Criminal Detention Facility Review Committee shall have final approving authority of plans. The committee will issue final written approval upon the incorporation of all requested changes requested by the Coordinator and/or the Committee.

SECTION 16-1004 DOCUMENTATION

Copies of all reports and documents pertaining to detention facilities shall be sent to the office of the Coordinator. A master file of inspection reports on each facility shall be maintained by the Criminal Detention Facility Review Committee at the County Clerk's office in the county in which the facility is located.

SECTION 16-1005 BUILDING CODES

All new construction, in addition to these standards, will be designed and constructed in accordance with the codes and standards adopted by the Arkansas Fire Marshal, Arkansas Department of Health, State Building Services, and others as required, and the latest edition of the Life Safety Code. If an addition increases the existing square footage by more than 50%, the entire Facility shall be made to conform to the entire Code.

SECTION 16-1006 ENVIRONMENTAL SYSTEMS, GENERALLY

Lighting will be appropriate to the activity for the area in question. Air circulation shall be provided and temperature shall be maintained between 65° and 85° Fahrenheit (exceptions can be made in extreme conditions and emergencies). All mechanical, plumbing, electrical, life safety, and security control equipment and systems shall be secured from unsupervised inmate access.

Automatic cut-in generators shall be provided of adequate capacity to operate electrical equipment and to provide minimum illumination within and around the facility.

SECTION 16-1007 FIRE DETECTION

Fire, smoke, and products of combustion detection equipment shall be provided according to the latest adopted state fire code. Said equipment will be battery-powered or part of the emergency power system.

SECTION 16-1008 DISABLED ACCESSIBILITY

There shall be facilities available in which to house and care for handicapped inmates. All areas of the facility shall be accessible to and usable by disabled persons.

SECTION 16-1009 EXITS

There shall be at least two identified exits from each housing area to permit the prompt evacuation of inmates and staff under emergency conditions. Required exits should lead directly to a hazard-free area where adequate supervision can be provided. The two exits must be as remote from each other as possible.

SECTION 16-1010 FLOOR DRAINS

Floor drains shall be designed, in accordance with the latest Arkansas plumbing code, to serve all housing and other areas where necessary to facilitate cleaning and prevent

inmate flooding of the facility. Floor drains shall be located outside the cell space to reduce the incident of tampering and flooding. Floor drain systems cannot drain into any sanitary sewer line within any area in which inmates are housed or detained.

SECTION 16-1011 NATURAL LIGHT

Natural light will be provided directly to all cell areas and if at all possible to activity rooms and day rooms, via skylight or windows, both of which are designed to minimize introduction of contraband or escape, as appropriate. (24 Hour/Overnight facilities are exempt)

SECTION 16-1012 CONTROLLED ACCESS

All pedestrian and vehicular entrances and exits to the facility shall be via sally port. The electric doors should be visible physically or electronically and be operated from the control center. The vehicular sally ports should be located adjacent to the intake area for transportation of inmates in and out of the facility. Interior sally ports should be located at points between inmate housing and/or public areas.

SECTION 16-1013 INTAKE, BOOKING, AND RELEASE AREAS

Intake/booking and release areas shall be located inside the security perimeter and have the following components:

A. Booking area.

B. Sally port vehicular and/or personnel.

C. Access to drinking water.

D. Access to shower facilities (24-Hour/Overnight Facilities are exempt.)

E. Secure storage for inmate's personal property.

F. Telephone facilities.

G. Private interview space or spaces.

H. Temporary holding area with seating.

I. Operable toilets and wash basins.

This area shall be designed so that newly admitted inmates may be processed in a thorough, humane and orderly manner. Provisions should be made to insure the safety of inmates and personnel and security of the facility. The intake area may also be used to process inmates for release.

SECTION 16-1014 ALCOHOL UNITS

Alcohol units shall be designed for detention of intoxicated persons during the sobering process ONLY, and these inmates shall be moved to cells or other areas as soon as they can properly care for themselves. Alcohol units shall be equipped with the following:

A. Seating.

B. A detention facility type toilet.

C. A wash basin.

D. A flush action floor drain.

E. A minimum of 15-square feet of floor space shall be provided for each inmate. The unit shall be constructed with view panels to allow unhampered visual supervision and should be located near the intake area.

SECTION 16-1015 INMATE SEPARATION

The facility shall be designed and constructed so those inmates can be separated according to existing laws and regulations, or according to the facility's classification plan. The facility shall have a sufficient number of cell blocks or dusters of detention rooms in an appropriate configuration so that the various categories of inmates can be housed separately.

SECTION 16-1016 GENERAL HOUSING REQUIREMENTS

Activity rooms or cells shall have, at a minimum, access to the following facilities:

A. A toilet above floor level, a wash basin, and drinking water, available without staff assistance.

B. Shower facilities. (24 hour/overnight facilities are exempt.)

C. Hot and cold running water, and

D. A bed above floor level.

E. Desk or a writing surface.

SECTION 16-1017 SINGLE CELLS

All single cells shall have a minimum 60-square foot of floor space providing inmates spend no more than 16 hours per day locked in cells. If cell confinement exceeds 16 hours per day, 70-square feet per cell will be provided.

Cell space is measured from interior wall to interior wall less the space occupied by plumbing chases and columns. Cell space does include the space occupied by bed, desk, plumbing fixtures, and entrances and exits. A minimal horizontal room dimension of 6' 8" and a clear ceiling height of 8'0': is required.

SECTION 16-1018 MULTIPLE OCCUPANCY HOUSING

Where used, multiple occupancy sleeping rooms may house no more than 50 inmates. These areas will provide:

A. The ability for observation by staff.

B. A minimum floor area of 35-square feet per inmate in the sleeping area.

C. Minimum clear floor-to-ceiling height of: 8'0" where room contains 10 or fewer inmates go where room contains 11 or more inmates

D. Beds above floor level.

SECTION 16-1019 SPECIAL HOUSING

There shall be at least one cell or room for ill, mentally disoriented, injured, non-ambulatory, or administrative segregation inmates which provides for staff observation.

SECTION 16-1020 DAYROOMS

There shall be a dayroom for each cell block or detention room cluster. The room shall have a minimum of 35-square feet of floor space per inmate served from the separate and distinct adjacent sleeping area. In housing areas utilizing cells housing two inmates each, dayroom areas may be sized at 17 *1/2'* square feet per inmate providing that scheduling of dayroom use insures that actual occupancy does not exceed 35-square feet per inmate. Square footage is to be calculated exclusive of a 3-foot wide circulation space directly in front of the cell doors. Inmates incarcerated in excess of 14 consecutive days shall have access to the dayrooms. (24-Hour/Overnight Facilities are exempt.)

SECTION 16-1021 ACTIVITY ROOMS

Activity rooms in the facility must have sufficient air circulation and temperature, and lighting for the activities being performed, and access to toilets and wash basins within the area. These areas include multi-purpose rooms, recreation areas, or program areas for inmates and/or work areas for staff. (24-Hour Overnight Facilities are exempt.)

SECTION 16-1022 LINEN STORAGE

Space shall be provided to store and issue facility clothing and bedding.

SECTION 16-1023 EXERCISE SPACES

Inmates shall have access to both indoor and outdoor exercise areas. Indoor exercise programs may be in spaces which lighting, temperature and ventilation are appropriate for the activities to be conducted. Hallway areas in front of cells or rooms will not be considered exercise space, (24-Hour/Overnight Facilities are exempt.)

SECTION 16-1024 SECURE STORAGE

Space shall be provided for the secure storage of chemical agents, restraining devices and related security equipment. Equipment shall be located in an area which is accessible to authorized personnel only. Separate and secure space will be provided for evidence and contraband. Cleaning equipment and supplies shall be stored in a supervised area.

SECTION 16-1025 ADMINISTRATIVE SPACE

Adequate space will be provided for general administrative and staff functions.

SECTION 16-1026 FOOD SERVICE SPACE

Adequate space and equipment will be provided for food preparation and/or handling.___(24 HOUR/OVERNIGHT EXEMPT)

SECTION 16-1027 VISITATION AND CONSULTATION AREA

The area for visitation by the public shall be outside the security perimeter, visiting area for the inmate shall be inside the security perimeter. The visiting area shall be acoustically treated to reduce noise. These areas may also be used as private consultation rooms for law enforcement officers, attorneys, clergy, etc. Optional contact visitation spaces may be provided. .

SECTION 16-1028 HEALTH ROOM

New facilities must contain a health room that can be used as a private examination room for the purpose of delivery of health care services, as described in Section 9-1002.

SECTION 16-1029. LAUNDRY

Adequate space and equipment will be provided for laundry. (24 hour and overnight exempt.)

LAWS REGARDING INMATES

12-30-205. Purchase of goods by nonprofit organizations and other individuals.

(a) A nonprofit organization may purchase goods produced by the Department of Correction's Industry Division as provided for by this subchapter upon the condition that the goods may not be resold for profit.

(b) (1) Goods produced by the division as provided for by this subchapter, excluding furniture and seating, may also be purchased by:

(A) Current employees and retirees of the Department of Correction;

(B)(i) All employees of the public offices, departments, institutions, school districts, and agencies of this state.

(ii) Subdivision (b)(1)(B)(i) of this section shall not include members of the General Assembly; and

(C) Current and former members of the Board of Corrections.

(2) Goods purchased by an individual under subdivision

(b)(1) of this section shall be for personal use only and not for resale.

(c) Goods or products that are produced, assembled, or packaged in whole or in part by the Department of Correction utilizing prison labor may be sold to inmates of the Department of Correction, Department of Community Correction, or a local correctional facility.

9-27-357. Deoxyribonucleic acid samples.

(a) A person who is adjudicated delinquent for the following offenses shall have a deoxyribonucleic acid sample drawn:

(1) Rape, § 5-14-103;

(2) Sexual assault in the first degree, § 5-14-124;

(3) Sexual assault in the second degree, § 5-14-125;

(4) Incest, § 5-26-202;

(5) Capital murder, § 5-10-101;

(6) Murder in the first degree, § 5-10-102;

(7) Murder in the second degree, § 5-10-103;

(8) Kidnapping, § 5-11-102;

(9) Aggravated robbery, § 5-12-103; and

(10) Terroristic act, § 5-13-310.

(11) Aggravated assault upon a law enforcement officer or an employee of a correctional facility, § 5-13-211, if a Class Y felony.

(b) The court shall order a fine of two hundred fifty dollars ($250) unless the court finds that the fine would cause an undue hardship.

(c)(1) Only a juvenile adjudicated delinquent for one (1) of the offenses listed in subsection (a) of this section shall have a deoxyribonucleic acid sample drawn upon intake at a juvenile detention facility or intake at a Division of Youth Services of the Department of Human Services facility.

(2) If the juvenile is not placed in a facility, the juvenile probation officer to whom the juvenile is assigned shall ensure that the deoxyribonucleic acid sample is drawn.

(d) All deoxyribonucleic acid samples taken under this section shall be taken in accordance with regulations promulgated by the State Crime Laboratory.

12-12-1105. State DNA Data Base.

(a)(1) There is established the State DNA Data Base.

(2) The State Crime Laboratory shall administer the data base and provide DNA records to the Federal Bureau of Investigation for storage and maintenance in CODIS.

(b) The data base shall have the capability provided by computer software and procedures administered by the laboratory to store and maintain DNA records related to:

(1) Crime scene evidence and forensic casework;

(2) Convicted offenders and juveniles adjudicated delinquent who are required to provide a DNA sample under this subchapter;

(3) Offenders who were required to provide a DNA sample under former § 12-12-1101 et seq.;

(4) Anonymous DNA records used for forensic validation, quality control, or establishment of a population statistics database;

(5) Unidentified persons or body parts;

(6) Missing persons and biological relatives of missing persons;

(7) Persons arrested for a felony offense who are required to provide a DNA sample under § 12-12-1006; and

(8) Juveniles adjudicated delinquent who are required to provide a DNA sample under § 9-27-357

12-12-1006. Fingerprinting, DNA sample collection, and photographing.

(a)(1)(A)(i) Immediately following an arrest for a Class A misdemeanor, a law enforcement official may take, or cause to be taken, the fingerprints and a photograph of the arrested person.

(ii) Immediately following an arrest for a felony offense, a law enforcement official at the receiving criminal detention facility shall take, or cause to be taken, the fingerprints and a photograph of the arrested person.

(B) A law enforcement official shall not take fingerprints of the arrested person if:

(i) The arrest was for a probation violation; and

(ii) The arrested person's fingerprints are already possessed by the Identification Bureau of the Department of Arkansas State Police.

(2) In addition to the requirements of subdivision (a)(1) of this section, a law enforcement official at the receiving criminal detention facility shall take, or cause to be taken, a DNA sample of a person arrested for any felony offense.

(b)(1) When the first appearance of a defendant in court is caused by a citation or summons for a Class A misdemeanor, a law enforcement official shall take, or cause to be taken, the fingerprints and a photograph of the arrested person.

(2)(A) When the first appearance of a defendant in court is caused by a summons for a felony offense, a law enforcement official at the receiving criminal detention facility shall take, or cause to be taken, the fingerprints and a photograph of the arrested person.

(B) In addition to the requirements of subdivision (b)(2)(A) of this section, if the first appearance of a defendant in court is caused by a summons for a felony offense, the court immediately shall order and a law enforcement officer shall take or cause to be taken a DNA sample of the arrested person.

(c)(1) When felony or Class A misdemeanor charges are brought against a person already in the custody of a law enforcement agency or correctional agency and the charges are separate from the charges for which the person was previously arrested or confined, the law enforcement agency or the correctional agency shall again take the fingerprints and photograph of the person in connection with the new charges.

(2) In addition to the requirements of subdivision (c)(1) of this section, when a felony charge enumerated in subdivision (a)(2) of this section is brought against a person already in the custody of a law enforcement agency or a correctional agency and the felony charge is separate from the charge or charges for which the person was previously arrested or confined, the law enforcement agency or the correctional agency shall take or cause to be taken a DNA sample of the person in connection with the new felony charge unless the law enforcement agency or the correctional agency can verify that the person's DNA record is stored in the State DNA Data Base or CODIS.

(d)(1) When a defendant pleads guilty or nolo contendere to or is found guilty of any felony or Class A misdemeanor charge, the court shall order that the defendant be immediately fingerprinted and photographed by the appropriate law enforcement official.

(2) In addition to the requirements of subdivision (d)(1) of this section, if a defendant pleads guilty or nolo contendere to or is found guilty of a felony charge enumerated in subdivision (a)(2) of this section, the court shall order that the defendant provide a DNA sample to the appropriate law

enforcement official unless the appropriate law enforcement official can verify that the defendant's DNA record is stored in the State DNA Data Base or CODIS.
(e)(1) Fingerprints or photographs taken after arrest or court appearance under subsections (a) and (b) of this section or taken from persons already in custody under subsection (c) of this section shall be forwarded to the Identification Bureau of the Department of Arkansas State Police within forty-eight (48) hours after the arrest or court appearance.
(2) Fingerprints or photographs taken under subsection (d) of this section shall be forwarded to the Identification Bureau by the fingerprinting official within five (5) working days after the plea or finding of guilt.
(f) Fingerprint cards or fingerprint images may be retained by the Identification Bureau, and criminal history information may be retained by the central repository for any criminal offense.
(g)(1) A DNA sample provided under this section shall be delivered to the State Crime Laboratory by a law enforcement officer at the law enforcement agency that took the sample in accordance with rules promulgated by the State Crime Laboratory.
(2) A DNA sample taken under this section shall be retained in the State DNA Data Bank established under § 12-12-1106.
(h) A DNA sample provided under this section shall be taken in accordance with rules promulgated by the State Crime Laboratory in consultation with the Department of Arkansas State Police and the Department of Health.
(i) Refusal to be fingerprinted or photographed or refusal to provide a DNA sample as required by this subchapter is a Class B misdemeanor.
(j)(1) A person authorized by this section to take a DNA sample is not criminally liable for taking a DNA sample under this subchapter if he or she takes the DNA sample in good faith and uses reasonable force.
(2) A person authorized by this section to take a DNA sample is not civilly liable for taking a DNA sample if the person acted in good faith, in a reasonable manner, using reasonable force, and according to generally accepted medical and other professional practices.
(k)(1) An authorized law enforcement agency or an authorized correctional agency may employ reasonable force if an individual refuses to submit to a taking of a DNA sample authorized under this subchapter.
(2) An employee of an authorized law enforcement agency or an authorized correctional agency is not criminally or civilly liable for the use of reasonable force described in subdivision (k)(1) of this section.
(l) A person less than eighteen (18) years of age is exempt from all provisions of this section regarding the collection of a DNA sample unless that person is charged by the prosecuting attorney as an adult in circuit court or pleads guilty or nolo contendere to or is found guilty of a felony offense in circuit court.

12-12-1019. Removal and destruction of the DNA record and DNA sample.

(a) Any person whose DNA record is included in the State DNA Data Base and whose DNA sample is stored in the State DNA Data Bank as authorized by this subchapter may apply to the State Crime Laboratory for removal and destruction of the DNA record and DNA sample if the arrest that led to the inclusion of the DNA record and DNA sample:

(1) Resulted in a charge that has been resolved by:

(A) An acquittal;

(B) A dismissal;

(C) A nolle prosequi;

(D) A successful completion of a preprosecution diversion program or a conditional discharge;

(E) A conviction of a Class B misdemeanor or Class C misdemeanor; or

(F) A reversal of the conviction that led to the inclusion of the DNA record and DNA sample; or

(2) Has not resulted in a charge within one (1) year of the date of the arrest.

(b) Except as provided in subsection (c) of this section, the State Crime Laboratory shall remove and destroy a person's DNA record and DNA sample by purging the DNA record and other identifiable information from the State DNA Data Base and the DNA sample stored in the State DNA Data Bank when the person provides the State Crime Laboratory with:

(1) A written request for removal and destruction of the DNA record and DNA sample;

(2) A court order for removal and destruction of the DNA record and DNA sample; and

(3) Either of the following:

(A) A certified copy of:

(i) An order of acquittal;

(ii) An order of dismissal;

(iii) An order nolle prosequi;

(iv) Documentation reflecting a successful completion of a preprosecution diversion program or a conditional discharge;

(v) A judgment of conviction of a Class B misdemeanor or Class C misdemeanor; or

(vi) A court order that reverses the conviction that led to the inclusion of the DNA record and DNA sample; or

(B) A court order stating that a charge arising out of the person's arrest has not been filed within one (1) year of the date of the arrest.

(c) The State Crime Laboratory shall not remove or destroy a person's DNA record or DNA sample under subsection (b) of this section if the person had a prior felony or Class A misdemeanor conviction or a pending charge for which collection of a DNA sample is authorized under Arkansas law.

(d) When the State Crime Laboratory removes and destroys a person's DNA record and DNA sample under subsection (b) of this section, the State Crime Laboratory shall request that the person's DNA record be purged from the National DNA Index System.

5-73-110. Disarming minors and mentally defective or irresponsible persons – Disposition of property seized.

(a) Subject to constitutional limitation, nothing in this section and §§ 5-73-101 -- 5-73-109 shall be construed to prohibit a law enforcement officer from disarming, without arresting, a minor or person who reasonably appears to be mentally defective or otherwise mentally irresponsible when that person is in possession of a deadly weapon.

(b) Property seized under subsection (a) of this section shall be:

(1) Held for seventy-two (72) hours by the law enforcement agency employing the law enforcement officer who seized the property; and

(2) After the seventy-two-hour hold and upon request and presentation of valid proof of ownership, returned to the:

(A) Owner, if he or she is eighteen (18) years of age or older and may lawfully possess the property; or

(B) Parent or legal guardian of the owner, if the owner is a minor and the parent or legal guardian may lawfully possess the property.

12-27-127. Transfer to the Department of Community Correction.

(a)(1) A commitment shall be treated as a commitment to the Division of Correction and subject to regular transfer eligibility.
(2) However, an inmate may be judicially or administratively transferred to the Division of Community Correction by the Division of Correction unless the court indicates on the sentencing order that the Division of Correction shall not administratively transfer a statutorily eligible inmate to the Division of Community Correction in accordance with the rules promulgated by the Board of Corrections.
(b)(1) In accordance with rules and procedures promulgated by the Board of Corrections and the orders of the committing court, the Director of the Division of Community Correction shall assign a newly transferred inmate to an appropriate facility, placement, program, or status within the Division of Community Correction.
(2) The director may transfer an inmate from one facility, placement, program, or status to another facility, placement, program, or status consistent with the commitment, applicable law, and in accordance with treatment, training, and security needs.
(3)(A) An inmate may be administratively transferred back to the Division of Correction from the Division of Community Correction by the Parole Board following a hearing in which the inmate is found ineligible for placement in a Division of Community Correction facility as he or she fails to meet the criteria or standards established by law or policy adopted by the Board of Corrections or has been found guilty of a violation of the rules of the facility.
(B) Time served in a community correction facility or under supervision by the Division of Community Correction shall be credited against the sentence contained in the commitment to the Division of Correction.
(c)(1) In accordance with rules and procedures promulgated by the Board of Corrections, or except as otherwise prohibited by subdivision (c)(4) of this section, upon receipt of a referral from the director or his or her designee, the Parole Board may release from confinement an inmate who has been:
(A) Sentenced and judicially or administratively transferred to the Division of Community Correction;
(B) Incarcerated for a minimum of one hundred eighty (180) days; and
(C) Determined by the Division of Community Correction to have successfully completed its therapeutic program.
(2)(A) The General Assembly finds that the power granted to the Parole Board under subdivision (c)(1) of this section will:
(i) Aid the therapeutic rehabilitation of the inmates judicially or administratively transferred to the Division of Community Correction; and
(ii) More efficiently use the correctional resources of the State of Arkansas.
(B) The power granted to the Parole Board under subdivision (c)(1) of this section shall be the sole authority required for the accomplishment of the purposes set forth in this subdivision (c)(2), and when the Parole Board exercises its power under this section, it shall not be necessary for the Parole Board to comply with general provisions of other laws dealing with the minimum time constraints as applied to release eligibility.
(3) This subsection does not grant the Parole Board or the Division of Community Correction the authority either to detain an inmate beyond the sentence imposed upon him or her by a transferring court or to shorten that sentence.
(4) An inmate may not be released from confinement under this section if the inmate was sentenced and judicially or administratively transferred to the Division of Community Correction at a time earlier than that which would otherwise be possible if the inmate was sentenced to the Division of Correction, regardless of any program completed by the inmate.
(d)(1) An inmate of the Division of Correction who is to be released on parole may be administratively transferred to the Division of Community Correction when the inmate is within eighteen (18) months of his or her projected release date for the purpose of participating in a reentry program of at least six (6) months in length.
(2) Each inmate administratively transferred under this subsection shall be thoroughly screened and approved for participation by the director or his or her designee.
(3) In accordance with rules promulgated by the Board of Corrections, upon receipt of a referral from the director or his or her designee, the Parole Board may release from incarceration an inmate who has been:
(A) Administratively transferred to the Division of Community Correction; and
(B) Determined by the Division of Community Correction to have successfully completed its reentry program.
(4) An inmate who has been administratively transferred under this subsection shall be administratively transferred back to the Division of Correction if he or she:
(A) Is denied parole; or
(B) Fails to complete or is removed from the reentry program.

Maltreatment of Adults

9-20-114. Emergency Custody

(a) The Department of Human Services or a law enforcement official may take a maltreated adult into emergency custody, or any person in charge of a hospital or similar institution or any physician treating any maltreated adult may keep the maltreated adult in custody, whether or not medical treatment is required, if the circumstances or condition of the maltreated adult are such that returning to or continuing at the maltreated adult's place of residence or in the care or custody of a parent, guardian, or other person responsible for the maltreated adult's care presents imminent danger to the maltreated adult's health or safety,

and the maltreated adult either:

(1) Lacks the capacity to comprehend the nature and consequences of remaining in a situation that presents imminent danger to his or her health or safety; or

(2) Has a mental impairment or a physical impairment that prevents the maltreated adult from protecting himself or herself from imminent danger to his or her health or safety.

(b) Emergency custody shall not exceed seventy-two (72) hours unless the expiration of seventy-two (72) hours falls on a weekend or holiday, in which case emergency custody shall be extended through the next business day following the weekend or holiday.

(c) A person who takes a maltreated adult into emergency custody shall notify the department immediately upon taking the adult into emergency custody.

(d) The department may release custody of an adult within the seventy-two (72) hours if the adult is no longer in circumstances or conditions that present imminent danger to the adult's health or safety.

(e)(1) If emergency custody is exercised under this section, the person exercising the custody or an authorized employee of the department may consent to having the maltreated adult transported by a law enforcement officer or by an emergency medical services provider if medically appropriate, even if the adult objects.

(2) No court order shall be required for transport by law enforcement or an emergency medical services provider.

(3) A law enforcement officer, an emergency medical services provider, and the employees of an emergency medical services provider are immune from criminal and civil liability for injury, death, or loss that allegedly arises from good faith action taken in accordance with this subsection.

(4) There is a presumption of good faith on the part of a law enforcement officer, an emergency medical services provider, and the employees of an emergency medical services provider that act in accordance with subdivisions (e)(1) and (2) of this section.

12-12-1708—Persons required to report adult or long-term care facility resident maltreatment

(a)(1) Whenever any of the following persons has observed or has reasonable cause to suspect that an endangered person or an impaired person has been subjected to conditions or circumstances that constitute adult maltreatment or long-term care facility resident maltreatment, the person shall immediately report or cause a report to be made in accordance with the provisions of this section:

(A) A physician; (B) A surgeon; (C) A coroner; (D) A dentist; (E) A dental hygienist; (F) An osteopath; (G) A resident intern; (H) A nurse; (I) A member of a hospital's personnel who is engaged in the administration, examination, care, or treatment of persons; (J) A social worker; (K) A case manager; (L) A home health worker; (M) A mental health professional; (N) A peace officer; (O) A law enforcement officer; (P) A facility administrator or owner; (Q) An employee in a facility; (R) An employee of the Department of Human Services, with the exception of an employee working with an ombudsman program established by the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, in accordance with 42 U.S.C. § 3001 et seq., as it existed on January 1, 2017;

(S) A firefighter;

(T) An emergency medical technician;

(U) An employee of a bank or other financial institution;

(V) An employee of the United States Postal Service;

(W) An employee or a volunteer of a program or an organization funded partially or wholly by the department who enters the home of or has contact with an elderly person;

(X) A person associated with the care and treatment of animals, such as animal control officers and humane society officials;

(Y) An employee who enforces code requirements for a city, township, or municipality;

(Z) Any clergy member, including without limitation, a minister, a priest, a rabbi, an accredited Christian Science practitioner, or any other similar functionary of a religious organization, or an individual reasonably believed to be a minister, a priest, a rabbi, an accredited Christian Science practitioner, or any other similar functionary of a religious organization by the person consulting him or her, except to the extent he or she:

(i) Has acquired knowledge of suspected maltreatment through communications required to be kept confidential pursuant to the religious discipline of the relevant denomination or faith; or

(ii) Received the knowledge of the suspected maltreatment from the offender in the context of a statement of admission; or

(AA) An employee working under contract for, or a contractor of, the Department of Human Services when acting within the scope of his or her contract or employment.

(2) Whenever a person is required to report under this subchapter in his or her capacity as a member of the staff, an employee in or owner of a facility, or an employee of the department, he or she shall immediately notify the person in charge of the institution, facility, or agency, or that person's designated agent, who shall then become responsible for making a report or cause a report to be made within twenty-four (24) hours or on the next business day, whichever is earlier.

(3) In addition to those persons and officials required to report suspected maltreatment, any other person may make a report if the person has observed an adult or long-term care facility resident being maltreated or has reasonable cause to suspect that an adult or long-term care facility resident has been maltreated.

(b)(1) A report for a long-term care facility resident shall be made:

(A) Immediately to the local law enforcement agency for the jurisdiction in which the long-term care facility is located; and

(B) To the Office of Long-Term Care, under rules of that office.

(2) A report of a maltreated adult who does not reside in a long-term care facility shall be made to the adult and long-term care facility maltreatment hotline provided in § 12-12-1707.

(c) No privilege or contract shall relieve any person required by this subchapter to make a notification or report from the requirement of making the notification or report.

(d)(1) Upon request the department shall provide a person listed in subdivision (a)(1) of this section with confirmation of receipt of a report of maltreatment.

(2) However, confirmation shall consist only of the

acknowledgement of receipt of the report and the date the report was made to the department.

5-28-101. Abuse of Adults—General provisions—Definitions

As used in this chapter:

(1) "Abuse" means:

(A) Any purposeful and unnecessary physical act that inflicts pain on or causes injury to an endangered person or an impaired person;

(B) Any purposeful or demeaning act that a reasonable person would believe subjects an endangered person or an impaired person, regardless of age, ability to comprehend, or disability, to ridicule or psychological injury in a manner likely to provoke fear or alarm;

(C) Any purposeful threat that a reasonable person would find credible and nonfrivolous to inflict pain on or cause injury to an endangered person or an impaired person except in the course of medical treatment or for justifiable cause; or

(D) With regard to any adult long-term care facility resident by a caregiver, any purposeful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish;

(2) "Adult maltreatment" means adult abuse, exploitation, neglect, physical abuse, or sexual abuse;

(3) "Board and care facility" means a residential setting including without limitation a long-term care facility or other facility that receives payment, regardless of whether the payment is made under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., from or on behalf of two (2) or more unrelated adults who reside in the residential setting, and for whom one (1) or both of the following is provided:

(A) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant; or

(B) A substantial amount of personal care services;

(4) "Caregiver" means a related or unrelated person, owner, agent, high managerial agent of a public or private organization, or a public or private organization that has the responsibility for the protection, care, or custody of an adult endangered person or an adult impaired person as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court;

(5) "Endangered person" means:

(A) An adult who:

(i) Is found to be in a situation or condition that poses an imminent risk of death or serious bodily harm to the adult; and

(ii) Demonstrates a lack of capacity to comprehend the nature and consequences of remaining in that situation or condition; or

(B) A long-term care facility resident who:

(i) Is found to be in a situation or condition which poses an imminent risk of death or serious bodily harm to the person; and

(ii) Demonstrates a lack of capacity to comprehend the nature and consequences of remaining in that situation or condition;

(6) "Exploitation" means:

(A) The illegal or unauthorized use or management of an adult endangered person's or an adult impaired person's funds, assets, or property or the use of an adult endangered person's or an adult impaired person's person, power of attorney, or guardianship for the profit or advantage of the actor or another person; or

(B) Misappropriation of property of an adult long-term care facility resident which means the deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of an adult long-term care facility resident's belongings or money without the adult long-term care facility resident's consent;

(7) "Imminent danger to health or safety" means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention;

(8)(A) "Impaired person" means a person eighteen (18) years of age or older who as a result of mental or physical impairment is unable to protect himself or herself from abuse, sexual abuse, neglect, or exploitation, and as a consequence of this inability to protect himself or herself is endangered.

(B) For purposes of this chapter, a long-term care facility resident is presumed to be an "impaired person";

(9) "Long-term care facility" means:

(A) A nursing home;

(B) A residential care facility;

(C) A post-acute head injury retraining and residential facility;

(D) Any facility that provides long-term medical or personal care;

(E) An intermediate care facility for individuals with intellectual disabilities; or

(F) An assisted-living facility;

(10) "Long-term care facility resident" means a person, regardless of age, living in a long-term care facility;

(11) "Long-term care facility resident maltreatment" means abuse, exploitation, neglect, physical abuse, or sexual abuse of a long-term care facility resident;

(12) "Neglect" means:

(A) An act or omission by an endangered person or an impaired person, for example, self-neglect; or

(B) A purposeful act or omission by a caregiver responsible for the care and supervision of an adult endangered person or an adult impaired person that constitutes negligently failing to:

(i) Provide necessary treatment, rehabilitation, care, food, clothing, shelter, supervision, or medical services to an adult endangered person or an adult impaired person;

(ii) Report a health problem or a change in a health problem or a change in the health condition of an adult endangered person or an adult impaired person to the appropriate medical personnel;

(iii) Carry out a prescribed treatment plan; or

(iv) Provide a good or service necessary to avoid physical harm, mental anguish, or mental illness as defined in rules promulgated by the Office of Long-Term Care to an adult long-term care facility resident;

(13) "Physical injury" means the:

(A) Impairment of a physical condition; or

(B) Infliction of substantial pain;

(14) "Serious bodily harm" means:

(A) Physical abuse;

(B) Sexual abuse;

(C) Physical injury; or

(D) Serious physical injury as defined in this chapter;

(15) "Serious physical injury" means physical injury to an endangered person or an impaired person that:

(A) Creates a substantial risk of death; or

(B) Causes:
(i) Protracted disfigurement;
(ii) Protracted impairment of health; or
(iii) Loss or protracted impairment of the function of any bodily member or organ;
(16) "Sexual abuse" means deviate sexual activity, sexual contact, or sexual intercourse, as those terms are defined in § 5-14-101, with another person who is incapable of consent because he or she is:
(A) Mentally defective, as defined in § 5-14-101;
(B) Mentally incapacitated, as defined in § 5-14-101; or
(C) Physically helpless, as defined in § 5-14-101; and
(17) "Substantial amount of personal care services" means services provided that assist the adults who reside at the facility with the activities of daily living in any amount greater than eighty percent (80%) of the maximum hours authorized by law, including assistance in personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.

5-28-107. Investigation by Attorney General

(a) The office of the Attorney General has concurrent jurisdiction with local law enforcement agencies and the Department of Human Services to investigate cases of suspected adult maltreatment of an adult endangered person or an adult impaired person residing in a board and care facility, an adult endangered person or an adult impaired person who is residing in a long-term care facility certified under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., or a person or adult impaired person who is receiving medical assistance under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., as part of the Arkansas Medicaid Program as defined in § 5-55-102 in a noninstitutional or other setting.
(b) If requested by the office of the Attorney General, a law enforcement agency shall assist in the investigation of any case of suspected adult maltreatment.
(c) The purposes of an investigation are to obtain and develop information that may be necessary to:
(1) Protect an abused, neglected, or exploited adult;
(2) Refer for criminal prosecution a person who abuses, neglects, or exploits any adult endangered person or adult impaired person; and
(3) Initiate a civil action, when appropriate, to protect an abused, neglected, or exploited adult.
(d) The Attorney General shall conduct a thorough investigation which may include a medical, psychological, social, vocational, financial, and educational evaluation and review.
(e)(1) Upon request, the medical, mental health, or other record regarding the abused, neglected, or exploited adult maintained by any facility or maintained by any person required by this chapter to report suspected abuse, neglect, or exploitation shall be made available to the Attorney General for the purpose of conducting an investigation under this chapter.
(2) Upon request, a financial record maintained by a bank or a similar institution shall be made available to the Attorney General for the purpose of conducting an investigation under this chapter.
(f)(1) A subpoena requiring the production of a document or the attendance of a witness at an interview, trial, or hearing conducted pursuant to the jurisdiction of the Medicaid Fraud Control Unit of the office of the Attorney General may be served by the Attorney General or any duly authorized law enforcement officer in the State of Arkansas personally, telephonically, or by registered or certified mail.
(2) In the case of service by registered or certified mail, the return post office receipt of delivery of the subpoena shall accompany the return.
(g)(1) If a facility or person upon whom a subpoena is served objects or otherwise fails to comply with the Attorney General's request for records, the Attorney General may file an action in circuit court for an order to enforce the request.
(2) Venue for the action to enforce the request is in Pulaski County.
(h) Upon cause shown, the circuit court shall order the facility or person who maintains the medical, mental health, or other record regarding the abused, neglected, or exploited adult to tender the requested record to the Attorney General for the purpose of conducting an investigation under this chapter.
(i)(1) A record obtained by the Attorney General pursuant to this chapter shall be classified as confidential information and is not subject to outside review or release by any individual except when a record is used or is potentially to be used by any governmental entity in any legal, administrative, or judicial proceeding.
(2) Notwithstanding any other law to the contrary, no person is subject to any civil or criminal liability for providing a record or providing access to a record to the Attorney General or to a prosecuting attorney.

12-12-1706. Civil Penalties

(a)(1) The Attorney General may institute a civil action on behalf of the State of Arkansas against any long-term care facility caregiver or board and care facility caregiver necessary to enforce any provision of this subchapter.
(2) Notwithstanding any criminal penalties assessed, any caregiver against whom any civil judgment is entered as the result of a civil action brought by the State of Arkansas through the Attorney General on a complaint alleging that caregiver to have abused, neglected, or exploited an endangered person or an impaired person in a board and care facility or in a long-term care facility certified under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. shall be subject to pay a civil penalty:
(A) Not to exceed ten thousand dollars ($10,000) for each violation judicially found to have occurred; or
(B) Not to exceed fifty thousand dollars ($50,000) for the death of a long-term care facility resident that results from a single violation.
(3)(A) The Attorney General shall not be precluded from recovering civil penalties under subdivision (a)(2)(A) of this section for the death of a person that results from multiple violations.
(B) However, the Attorney General may not recover civil penalties under both subdivisions (a)(2)(A) and (B) of this section.
(b) In any action brought under this section, the Attorney General shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(c) Any civil penalty under subdivision (a)(2) of this section shall be paid into the State Treasury and credited to the Arkansas Medicaid Program Trust Fund.
(d) Any caregiver against whom any civil judgment is entered as the result of a civil action under this section by the Attorney General shall be required to pay to the Attorney General all reasonable expenses that the court determines have been necessarily incurred in the enforcement of this subchapter.
(e) A civil action under this section may not be brought more than three (3) years after the date on which the violation of this subchapter is committed.

Treatment of Female Inmates

In 2019, the legislature added a new chapter to Arkansas Code Title 12 pertaining the treatment of female inmates or detainees.

12-32-101 Definitions

As used in this chapter:
(1) "Correctional or detention facility" means:
(A) A local or state correctional facility or detention facility that has the power to detain or restrain a person under the laws of the state, including a city jail, county jail, or facility operated by the Division of Correction or the Division of Community Correction; or
(B) A post-incarceration residential reentry facility designed to house a person on parole;
(2) "Detainee" includes a person detained under the immigration laws of the United States;
(3) "Inmate" means any person incarcerated in a correctional or detention facility for any reason;
(4) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;
(5) "Post-partum" means, as determined by the physician of the inmate or detainee, the thirty-day period following delivery of a child; and
(6)(A) "Restraints" means a physical restraint or mechanical device used to control the movement of an inmate's or detainee's body or limbs, including without limitation:
(i) Flex cuffs;
(ii) Soft restraints;
(iii) Hard metal handcuffs;
(iv) A black box;
(v) Chubb cuffs;
(vi) Leg irons;
(vii) Belly chains;
(viii) A security tether or chain;
(ix) A convex shield; and
(x) Restraints connecting more than one (1) inmate or detainee.
(B) "Restraints" does not include a door to a room.

12-32-102—Restraint of pregnant inmate or detainee

(a) A correctional or detention facility shall not place an inmate or detainee verified to be pregnant, in labor, or in post-partum recovery in restraints unless:
(1) The correctional or detention facility makes a reasonable and individualized determination that the inmate or detainee presents a substantial flight risk; or
(2) An extraordinary medical or security circumstance dictates that the inmate or detainee be restrained to:
(A) Ensure the safety and security of:
(i) The inmate, detainee, or child;
(ii) The staff of the correctional or detention facility, or medical facility;
(iii) Other inmates or detainees; or
(iv) The public; or
(B) Prevent the risk of escape by the inmate or detainee that cannot be reasonably minimized through a safer method than restraints.
(b)(1) If the correctional or detention facility determines that the inmate or detainee is required to be restrained under subsection (a) of this section, the restraints shall be removed if a physician, nurse, or other health professional requests that the inmate or detainee not be restrained.
(2)(A) The physician, nurse, or other health professional providing inmate or detainee obstetric care shall have final decision-making authority on the use of restraints while the inmate or detainee is in labor or delivery.
(B) If the inmate or detainee is not under the care of a physician, nurse, or other health professional, the official at the correctional or detention facility primarily responsible for medical care of inmates or detainees shall have final decision-making authority on the use of restraints and shall consult with a physician, nurse, or other healthcare provider who specializes in obstetrics about the use of restraints on the inmate or detainee.
(c) If restraints are used on a pregnant inmate or detainee under subsection (a) of this section:
(1)(A) The type of restraints shall be the least restrictive type necessary, and the restraints shall be applied in the least restrictive manner necessary.
(B) Leg or waist restraints shall not be used on any pregnant inmate or detainee who is in labor.
(C) Leg restraints shall not be used on a pregnant inmate or detainee who is not in a wheelchair, bed, or gurney;
(2) The restraints shall always be forward-facing, designed to restrain the hands of the pregnant inmate or detainee in front of the pregnant inmate or detainee to protect the pregnant inmate or detainee and others;
(3) Only soft restraints may be used; and
(4)(A) The correctional or detention facility shall make written findings within ten (10) days regarding the substantial flight risk of that pregnant inmate or detainee or other extraordinary medical or security circumstance that dictated the pregnant inmate or detainee be restrained to ensure the safety and security of the pregnant inmate or detainee, the child, staff of the correctional or detention facility, or medical facility, other inmates or detainees, or the public.
(B) The written findings under subdivision (c)(4)(A) of this section shall be maintained by the correctional or detention facility for at least five (5) years and be made available for public inspection, except that information identifying any pregnant inmate or detainee or that could lead to the identification of the pregnant inmate or detainee shall not be made public.
(d) If restraints are used during labor, the Division of Correction or the Division of Community Correction, as applicable, shall report the use of restraints during labor to the Board of Corrections and to the Attorney General.

12-32-103—Necessary female prenatal nutrition and hygiene products required.

(a) A correctional or detention facility shall establish a policy for providing:

(1) Necessary prenatal vitamins and nutrition for pregnant inmates and detainees;

(2) A necessary number of hygiene products for female inmates and detainees;

(3) A necessary number of undergarments for female inmates and detainees;

(4) A lower bunk for a pregnant inmate or detainee; and

(5) Unless otherwise provided for by the correctional or detention facility, access for a pregnant inmate or detainee to nonprofit educational programming, such as prenatal care, pregnancy-specific hygiene, and parenting classes.

(b) A policy under this section may be approved annually by the Charitable, Penal and Correctional Institutions Subcommittee of the Legislative Council.

12-32-104—Restrictive housing prohibited

a) As used in this section, “restrictive housing” means a housing placement that requires an inmate or detainee to be confined in a cell for at least twenty-two (22) hours per day.

(b) An inmate or detainee in a correctional or detention facility shall not be placed in restrictive housing for thirty (30) or more days if the inmate or detainee:

(1) Is pregnant;

(2) Has delivered a child within the previous thirty (30) days and is not currently breastfeeding;

(3) Is breastfeeding; or

(4) Is under a physician's care for postpartum depression or other medically verifiable postpartum condition.

(c) A pregnant inmate or detainee may not be placed in restrictive housing for any length of time unless the correctional or detention facility determines that the pregnant inmate's or detainee's continued presence in the general population of the correctional or detention facility poses:

(1) A direct threat to:

(A) The safety of a person; or

(B) An unborn child or children; or

(2) A clear threat to the safe and secure operations of the correctional or detention facility.

(d)(1) A housing assignment for a pregnant inmate or detainee shall be made in conjunction with a licensed medical provider responsible for providing medical care for the pregnant inmate or detainee.

(2) A housing assignment under subdivision (d)(1) of this section shall be reviewed by the correctional or detention facility and the licensed medical provider responsible for providing medical care for the pregnant inmate or detainee every five (5) days if the pregnant inmate or detainee has been placed in restrictive housing for up to thirty (30) days as authorized under subsection (b) of this section.

(d)1This section does not apply if:

(1) The inmate or detainee has engaged in an act of violence while incarcerated or detained that either resulted in or was likely to result in serious physical injury or death to another person; or

(2) There is reasonable cause to believe that the use of restrictive housing is necessary to reduce a substantial risk of imminent serious physical injury or death to another person, as evidenced by the inmate or detainee's recent conduct while incarcerated or detained.

12-32-105—Mammograms and physician consultation

(a) A correctional or detention facility operated or administered by the Department of Corrections shall establish a policy to offer a female inmate or detainee who is:

(1) Fifty (50) years of age or older but younger than seventy-five (75) years of age a mammogram screening every two (2) years; and

(2) Forty (40) years of age or older but younger than fifty (50) years of age a consultation with a physician to seek professional care as to when to receive a mammogram.

(b) A mammogram or consultation with a physician under this section shall be at no cost to the female inmate or detainee.

16-93-211. Early release to transitional housing facilities.

(a)(1) As used in this section, "transitional housing" means a program that provides housing for one (1) or more offenders who have been:

(A) Transferred or paroled from the Department of Correction by the Parole Board;

(B) Placed on probation by a circuit court or district court; or

(C) Administratively transferred from the Department of Correction to the Department of Community Correction for participation in a reentry program.

(2) An offender's home or the residence of an offender's family member shall not be considered a transitional housing facility for purposes of this section.

(b)(1) To assist an offender who will be eligible for parole or transfer to successfully reintegrate into the community, the board is authorized to place the offender into approved transitional housing up to one (1) year prior to the offender's date of eligibility for parole or transfer.

(2) Subject to conditions of release and consistent with rules promulgated by the board, placement in a transitional housing facility must be preceded by:

(A) The provision of all applicable notices under § 16-93-615; and

(B) A hearing conducted by the board.

(c) The decision to place an offender in transitional housing and the establishment of conditions of release by the board must be based on a reasoned, rational plan developed in conjunction with an accepted risk-needs assessment tool such that each placement decision is based on;

(1) Established criteria; and

(2) A determination that there is a reasonable probability that an offender can be placed in a transitional housing facility without detriment to:

(A) The community; or

(B) The offender.

(d) Conditions of release imposed by the board must at a minimum include a curfew requiring an offender placed in transitional housing to present himself or herself at a scheduled time to be confined in the transitional housing facility.

(e) An offender placed in transitional housing by the board will be supervised by officers of the Department of Community Correction.

(f) An offender who without permission leaves the custody of the transitional housing facility in which he or she is placed may be subject to criminal prosecution for escape, §§ 5-54-110 – 5-54-112.

(g) Revocation of placement in transitional housing must follow the revocation proceedings established in § 16-93-705.

16-93-705 Revocation- Procedures and Hearings Generally

(a)(1)(A)(i) At any time during a parolee's release on parole, the Parole Board may issue a warrant for the arrest of the parolee for violation of any conditions of parole or may issue a notice to appear to answer a charge of a violation.

(ii) The Department of Community Correction shall provide the information necessary for the board to issue a warrant under subdivision (a)(1)(A)(i) of this section.

(B)(i) The board shall issue a warrant for the arrest of a parolee if the board determines that the parolee has been charged with a felony involving violence, as defined under § 5-4-501(d)(2), or a felony requiring registration under the Sex Offender Registration Act of 1997, § 12-12-901 et seq.

(ii) The Department of Community Correction shall provide the information necessary for the board to issue a warrant under subdivision (a)(1)(B)(i) of this section.

(iii) A parolee arrested on a warrant issued under subdivision (a)(1)(B)(i) of this section shall be detained pending a mandatory parole revocation hearing.

(2) The warrant or notice shall be served personally upon the parolee.

(3) The warrant shall authorize all officers named in the warrant to place the parolee in custody at any suitable detention facility pending a hearing.

(4) Any parole officer may arrest a parolee without a warrant or may deputize any officer with power of arrest to arrest the parolee without a warrant by giving him or her a written statement setting forth that the parolee, in the judgment of the parole officer, violated conditions of his or her parole.

(5) The written statement delivered with the parolee by the arresting officer to the official in charge of the detention facility to which the parolee is brought shall be sufficient warrant for detaining him or her pending disposition.

(6) If the board or its designee finds, by a preponderance of the evidence that the parolee has inexcusably failed to comply with a condition of his or her parole, the parole may be revoked at any time prior to the expiration of the period of parole.

(7) A parolee for whose return a warrant has been issued by the board shall be deemed a fugitive from justice if it is found that the warrant cannot be served.

(8) The board shall determine whether the time from the issuance of the warrant to the date of arrest, or any part of it, shall be counted as time served under the sentence.

(b)(1) A parolee arrested for violation of parole shall be entitled to a preliminary hearing to determine whether there is reasonable cause to believe that he or she has violated a condition of parole.

(2) The preliminary hearing shall be scheduled within seven (7) days after arrest and conducted within fourteen (14) days after arrest, excluding a weekend, holiday, or delay caused by an act of nature, by the parole revocation judge for the board and reasonably near the place of the alleged violation or arrest.

(3) The parolee shall be given prior notice of the date, time, and location of the preliminary hearing, the purpose of the preliminary hearing, and the conditions of parole he or she is alleged to have violated.

(4) Except as provided in subsection (d) of this section, the parolee shall have the right to hear and controvert evidence against him or her, to offer evidence in his or her own behalf, and to be represented by counsel.

(5) If the parole revocation judge finds that there is reasonable cause to believe that the parolee has violated a condition of parole, the parole revocation judge may order the parolee returned to the nearest facility of the Department of Correction or Department of Community Correction where the parolee shall be placed in custody for a parole revocation hearing before the board.

(6) If the parole revocation judge finds that there is reasonable cause to believe that the parolee has violated a condition of parole, the parole revocation judge may return the parolee to parole supervision rather than to the custody of the Department of Correction and may impose additional supervision conditions in response to the violating conduct.

(7) If the parole revocation judge does not find reasonable cause, he or she shall order the parolee released from custody, but that action shall not bar the board from holding a parole revocation hearing on the alleged violation of parole or from ordering the parolee to appear before the board.

(8) The parole revocation judge shall prepare and furnish to the board and the parolee a summary of the parole revocation hearing, including the substance of the evidence and testimony considered along with the ruling or determination, within twenty-one (21) days from the date of the preliminary hearing, excluding a weekend, holiday, or delay caused by an act of nature.

(c)(1)(A) Unless a parole revocation hearing is knowingly and intelligently waived by the parolee, a parole shall not be revoked except after a parole revocation hearing, which shall be conducted by the board or its designee within a reasonable period of time after the parolee's arrest.

(B) If a waiver is granted under subdivision (c)(1)(A) of this section, the parolee may subsequently appeal the waiver to the board.

(2) The parolee shall be given prior notice of the date, time, and location of the parole revocation hearing, the purpose of the parole revocation hearing, and the conditions of parole he or she is alleged to have violated.

(3) Except as provided in subsection (d) of this section, the parolee shall have the right to hear and controvert evidence against him or her, to offer evidence in his or her own defense, and to be represented by counsel.

(4) If parole is revoked, the board or its designee shall prepare and furnish to the parolee a written statement of evidence relied on and the reasons for revoking parole.

(d) At a preliminary hearing under subsection (b) of

this section or a parole revocation hearing under subsection (c) of this section:

(1) The parolee shall have the right to confront and cross-examine adverse witnesses unless the parole revocation judge or the board or its designee specifically finds good cause for not allowing confrontation; and

(2) The parolee may introduce any relevant evidence of the alleged violation, including letters, affidavits, and other documentary evidence, regardless of its admissibility under the rules governing the admission of evidence.

(e) A preliminary hearing under subsection (b) of this section shall not be required if:

(1) The parolee waives a preliminary hearing; or

(2) Unless a parole revocation hearing is knowingly and intelligently waived by the parolee under subsection (c) of this section, the parole revocation hearing under subsection (c) of this section is held within fourteen (14) calendar days after the arrest and reasonably near the place where the alleged violation occurred or where the parolee was arrested.

(f) A preliminary hearing under subsection (b) of this section and a parole revocation hearing under subsection (c) of this section shall not be necessary if the parole revocation is based on the parolee's conviction, guilty plea, or plea of nolo contendere to a felony offense for which he or she is sentenced to the Department of Correction or to any other state or federal correctional institution.

(g) The county sheriff or keeper of the county jail may permit the parolee to be held in the county jail while awaiting the parole revocation hearing under this section and ruling of the board or its designee.

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

16-93-201. Creation – Members – Qualifications and training. Parole Board.

(a)(1) There is created the Parole Board, to be composed of seven (7) members to be appointed from the state at large by the Governor and confirmed by the Senate.

(2)(A)(i) A member of the board shall be a full-time official of this state and shall not have any other employment for the duration of his or her appointment to the board.

(ii)(a) A member of the board who is currently serving as of April 1, 2015, shall terminate any other employment that has not been approved as required by subdivision (a)(2)(A)(ii)(b) of this section.

(b) A member may engage in employment that has a limited time commitment with approval from the Chair of the Parole Board.

(B)(i) The Governor shall appoint one (1) member as the chair who shall be the chief executive, administrative, budgetary, and fiscal officer of the board and the chair shall serve at the will of the Governor.

(ii) The chair shall have general supervisory duties over the members and staff of the board but may not remove a member of the board except as provided under subsection (e) of this section.

(iii) The board may review and approve budget and personnel requests prior to submission for executive and legislative approval.

(C) The board shall elect from its membership a vice chair and a secretary who shall assume, in that order and with the consent of the Governor, the duties of the chair in the case of extended absence, vacancy, or other similar disability of the chair until the Governor designates a new chair of the board.

(3) Each member shall serve a seven-year term, except that the terms shall be staggered by the Governor so that the term of one (1) member expires each year.

(4)(A) A member shall have at least a bachelor's degree from an accredited college or university and the member should have no less than five (5) years' professional experience in one (1) or more of the following fields:

(i) Parole supervision;

(ii) Probation supervision;

(iii) Corrections;

(iv) Criminal justice;

(v) Law;

(vi) Law enforcement;

(vii) Psychology;

(viii) Psychiatry;

(ix) Sociology;

(x) Social work; or

(xi) Other related field.

(B) If the member does not have at least a bachelor's degree from an accredited college or university, he or she shall have no less than seven (7) years' experience in a field listed in subdivision (a)(4)(A) of this section.

(5)(A) A member appointed after July 1, 2011, whether or not he or she has served on the board previously, shall complete a comprehensive training course developed in compliance with guidelines from the National Institute of Corrections, the Association of Paroling Authorities International, Inc., or the American Probation and Parole Association.

(B) All members shall complete annual training developed in compliance with guidelines from the National Institute of Corrections, the Association of Paroling Authorities International, Inc., or the American Probation and Parole Association.

(C) Training components under this subdivision (a)(5) shall include an emphasis on the following subjects:

(i) Data-driven decision making;

(ii)(a) Evidence-based practice.

(b) As used in this section, “evidence-based practice” means practices proven through research to reduce recidivism;

(iii) Stakeholder collaboration; and

(iv) Recidivism reduction.

(b) If any vacancy occurs on the board prior to the expiration of a term, the Governor shall fill the vacancy for the remainder of the unexpired term, subject to confirmation by the Senate at its next regular session.

(c) The members of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

(d)(1) Four (4) members of the board shall constitute a quorum for the purpose of holding an official meeting.

(2) However, the affirmative vote of at least five (5) of the members of the board is required for any action by the board.

(e)(1) A member of the board may be removed by the Governor after the Governor has received notification from the chair that the member:

(A) Has been derelict in his or her duties as a member of the board; or
(B) No longer meets the eligibility requirements to serve as a member of the board.
(2) The member of the board who has been reported to the Governor under subdivision (e)(1) of this section shall receive written notice of the notification by the chair to the Governor and the member of the board shall be allowed an opportunity to respond within seven (7) days.
(f)(1) When exercising his or her duties with regards to the board, the chair shall work in consultation with the Secretary of the Department of Corrections.
(2)(A) As used in this subsection, "consultation" means coordination with and receiving input, review, and recommendations from the Secretary of the Department of Corrections.
(B) "Consultation" does not include approval or consent of the Secretary of the Department of Corrections, except that the Secretary of the Department of Corrections shall review and approve any legislative proposals initiated by or on behalf of the board.

Failure to Train, Hire or Supervise

A Sheriff has an affirmative duty to provide necessary training, hiring or supervision. A Sheriff can not be deliberately indifferent to training needs, hiring needs, and supervision needs.

TRAINING: If a training need is so obvious and the inadequacy is likely to result in violation of constitutional rights, then policymakers may reasonably be said to have been deliberately indifferent to training needs. *City of Canton v. Harris*, 489 U.S. 378 (1989).

HIRING: Where adequate scrutiny of an applicant's background would lead a reasonable policymaker to conclude that the plainly obvious consequence of the decision to hire the applicant would be to deprive a third party of federally protected rights, than a county may be deemed deliberately indifferent to hiring needs. *Board of County Commissioners of Bryan County v. Brown*, 520 U.S. 397 (1997).

SUPERVISION: Where it is obvious that the offending officer was highly likely to inflict the particular injury suffered by plaintiff, there may be sufficient evidence to conclude that it was obvious that the sheriff made a policy decision not to train the particular deputy in question and this would result in a constitutional deprivation. *Brown v. Bryan County*, 219 F. 3rd (5th Cir. 2000).

The information above on "Failure to Train, Hire or Supervise" was provided by courtesy of Mike Rainwater, Attorney at Law.

Chapter 8 -CONTRACT LAW ENFORCEMENT

This chapter on Contract Law Enforcement was included to familiarize Sheriffs and deputies with all aspects of that service delivery. What can and cannot be expected of that contractor. Planning and implementing the delivery of law enforcement services under contract. How department resources can best be managed to make contract programs work.

Cities are contracting more with counties for countywide law enforcement and counties/ states are contracting more for the operation of county jails/ state correctional facilities.

Contract law enforcement programs are gaining popularity nation-wide because of limited resources available to local governments.

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CONTRACT LAW ENFORCEMENT

I. Introduction to Contract Law Enforcement

Contract law enforcement is one of the most promising developments in the criminal justice system. As its growing popularity demonstrates, contracting for law enforcement services is attractive to the law enforcement manager and local officials alike. Versatile and practical, contract law enforcement programs share many standard characteristics, yet with careful planning, each can be adapted to meet a wide variety of situations and needs.

Contract law enforcement is a voluntary program in which one government enters into a formal, legally binding agreement to provide law enforcement services to another government for a fee and without altering the fundamental powers and responsibilities of either government. In the context of this discussion, an agreement to provide law enforcement services is:

-Voluntary: - It is established, modified and renewed by contract

-Formal: - It is accomplished according to obligations, conditions, and standards of performance stipulated in a written document

-Legally Binding: - It creates a legal relationship among the participants that guarantees their rights and duties

-Involves a Fee: - It requires the payment of fees for services rendered -Does Not Alter Fundamental Governmental Powers and Responsibilities: It involves only a limited transfer of authority to enable one government to become the paid agent of another for the purpose and duration of the agreement.

A. Delivery Systems

Contracting for law enforcement services permits great flexibility in service delivery. A contract for law enforcement services may range from the purchase of a single service to the procurement of a complete law enforcement protection package of primary, auxiliary, and technical services. To better understand how contract law enforcement services are purchased and delivered, it is helpful to view contracting as consisting of either general service or selective service programs.

General service contract programs involve a provider government, its producer agency, and the recipient government. This involves three participants:

-Provider Government: - The state, county or municipal government that agrees to provide law enforcement services.

-Producer Agency: - The provider government's law enforcement agency that actually produces and delivers these services.

-Recipient Government: - The government that purchases and receives these services.

Four of the most common general service delivery systems in operation today include:

-Standard Patrol Beat Delivery: - In this delivery system, the recipient government purchases a desired level of patrol coverage and the producer agency treats the contract service as a new beat.

-Resident Deputy or Trooper: - This is one of the oldest delivery systems for general contract services and one that remains popular in rural areas and small towns. A resident program involves one, or possibly two, designated officers assigned to a contract service area for extended tours of duty ranging from several months to several years. These officers usually live in or near the community they

serve.

-Regional or Shared Patrol Beat Delivery: This system is of growing popularity among contiguous jurisdictions. In regional or shared beat delivery, artificial political boundaries are ignored and two or more contract service areas are treated as a single entity.

-Mixed Delivery: In some instance where general law enforcement services are delivered within a regional or shared beat delivery system, a recipient government may determine that it has particular law enforcement needs not shared by other recipients. These needs might include a community relations officer, a school safety officer, increased traffic control, -and so forth. If this recipient government chooses to purchase supplemental or specialized services in addition to its general coverage from the regional delivery system, a mixed delivery of services results. In selective service contracting, the recipient government purchases one or more services separately to supplement the general law enforcement services provided by its own department. Thus, there is a fourth participant in selective service contracting; the recipient agency, which remains the primary deliverer of law enforcement, services throughout its jurisdiction.

14-52-101. Establishing a police department in cities of the first class

(a) The governing body of a city of the first class shall establish a city police department and provide the city police department with the proper means and equipment to provide law enforcement services for the city and its inhabitants in a manner that will most effectually preserve the peace of the city, secure the citizens from personal violence, and safeguard their property.

(b) In lieu of establishing a city police department under this section, a governing body of a city of the first class may enter into a contract or interlocal agreement for law enforcement services with an existing law enforcement agency.

14-52-102. Establishing a police department in cities of the second class and incorporated towns.

(a) The governing body of a city of the second class or an incorporated town may establish a police department and provide law enforcement services for the city of the second class or incorporated town that will most effectively preserve the peace of the city of the second class or incorporated town, secure the citizens from personal violence, and safeguard their property.

(b) In lieu of establishing a police department under this section, a governing body of a city of the second class or incorporated town may enter into a contract or interlocal agreement for law enforcement services with an existing law enforcement agency.

B. Growth of Contract Law Enforcement

Like most other manifestations of modern government, contract law enforcement is the product of evolution. In Los Angeles County, California, generally considered the birthplace of contract law enforcement, contracting for law enforcement services came about as part of the "Lakewood Plan". The Lakewood Plan called for most municipal services, including law enforcement, to be purchased from and provided by the county. Although law enforcement was only one of the many services purchased together as a single package under contract, it proved to be one of the most successful services obtained in this manner.

II. Essential Considerations in Delivery Contract Law Enforcement Services

Law enforcement managers, contracting for the first time, soon discover that there isn't a "black magic" to the delivery of contract services, and that the application of familiar law enforcement techniques and proven expertise can be relied upon to result in effective contract field operations. But they also quickly discover that delivering services within the context of a negotiated agreement to a new contract service area often requires special attention to perspectives, potentials and problems that are seldom encountered to the same degree or in the same form when conducting law enforcement within a more traditional framework. An informed understanding of these considerations is essential to developing a successful contract program.

A. Legal Authorization

A unit of local government usually is limited to contracts authorized expressly by state legislative acts or constitutional provisions, or as may be necessarily implied from such an express authorization. For more than fifty years, state legislatures have been providing broader and more general grants of contracting authority to their political subdivisions. Today, contracting for law enforcement services is permitted in almost every state. Still, grants of authority vary, and not all state legislation is equally broad either as to the types of services that may be contracted for or the units of government permitted to contract. Occasionally, questions arise regarding the impact of home rule grants upon the authority to contract, the scope of contracting authorizations, and the relationship between general and specific grants of contracting authority.

B. Service Area

Service areas can range from the corporate entities of governmental units to bodies of water, parks and forests and other topographic features. The boundaries of the service area must be precisely determined to fix the jurisdictional limits of local enforcement authority that may be delegated by the recipient government and to define the geographic basis for estimating service requirements and planning service delivery. Basic information should be collected and processed to assess crime rates and patterns and the frequency and distribution of calls for service. Specific enforcement hazards, patrol barriers, patterns of use, and other characteristics of the service area that are important to field operations should also be surveyed and evaluated.

III. Costing and Financing Contract Law Enforcement Services

Costing and financing contract law enforcement services are sometimes difficult and are always highly dependent upon the specific circumstances and needs of the contract participants. The challenge of costing and financing contract services has been in many different ways, using widely varied techniques and criteria.

The least complicated way to determine costs and fees for contract law enforcement services, and on that is compatible with the line item budgets of most producer agencies, is to calculate the hourly cost of a one-person patrol unit. The following is a list of various cost categories to which expenses can be assigned when developing a program budget.

Personnel

- Base Salary - Fringe Benefits
- Overtime - Uniform
- Training

Field Equipment

- Vehicle - Weapons
- Personal Gear - Expendable Supplies

Indirect Support

- Administration - Auxiliary/Technical Services
- Planning - Dispatch and Communications
- Budgeting - Crime Laboratory
- Fiscal & Personal - Records and Identification Management
- Secretarial - Facilities
- Public Information and - Fixtures Community Relations
- Office Space and Equipment
- Utilities
- Physical Plant

As a rule, municipal provider governments, which bear no constitutional responsibilities or statutory obligation to provide law enforcement protection beyond their boundaries of incorporation, charge the full costs of contract services delivered by their producer agencies.

Estimating costs for these contract programs is usually a straightforward process: divide the law enforcement budget of the producer agency by the number of patrol officers, supervisors, and investigators assigned to field operations. This yields the average annual direct personnel, field equipment, and indirect support costs of maintaining a single patrol officer and his vehicle in the field.

Because recipient governments frequently purchase contract law enforcement services in blocks of patrol time, it may be useful to further breakdown annual cost estimates to an hourly basis. This requires an accurate determination of the number of hours that an officer actually is available for work. A basic work year consists of 2,080 hours, however, due to holidays, vacation, sick leave, and training, an officer will not be available to service a contract for all of these hours.

IV. Managing, Manpower, Facilities and Equipment for Contract Programs

Optimum effectiveness in the delivery of contract law enforcement services is very much dependent on the management of the programs resources: its manpower, facilities, and equipment. These are the raw materials of a contract program that, when coupled with sound decision-making and planning, result in a successful contract law enforcement program.

A. Manpower

If a new contract law enforcement program is to succeed, the personnel of the producer agency must be induced in a positive way to work for its successes. The most productive motivation involves appealing to the individual's self-interest, loyalty and pride.

Whether it is better to rotate contract personnel or make their positions fixed largely remains an open question.

Most producer agency managers, however, tend to favor periodic rotation for general contract assignments, whereas, specialized assignments are more commonly fixed. As a general rule, the final say in the selection and assignment of personnel qualified to deliver law enforcement services under contract is the responsibility of the producer agency. This is because, as the employer, and because of its expertise in law enforcement, the producer agency is in the best position to assure that minimum professional qualifications, including those for training and experience, have been met and that the officer is committed to program success.

B. Facilities

Expanded headquarters or field facilities are sometimes needed for contract law enforcement programs requiring substantial increases in manpower and equipment or more decentralized field operations. Producer agencies contracting for the first time occasionally fail to forecast their needs for additional space and fixtures. Sometimes these agencies have discovered that the offices, storage, parking lot, or garage and gas tank of their department are not adequate to support the new contract program.

Estimates of extra personnel and equipment necessary for the delivery of contract services should be matched against existing facilities. The housing requirements of "process" activities such as booking, records, and evidence should not be overlooked. Potential deficiencies should be identified and corrective action taken. This is a good time to assess facility management practices. It is possible that the present physical plant can be made to service through improved scheduling of workflow and a more productive use of available space.

C. Equipment

Depending upon the quantity and type of service delivery, contract programs frequently require additional items of standard field equipment and, upon occasion, special equipment items must be procured. For example, if a state police department that usually emphasizes statewide traffic enforcement develops a resident trooper to provide general law enforcement services to a small community, it could be forced to acquire additional vehicles to serve as take-home cars and walkie-talkies to support foot patrol and community relations work requiring contract officers to be away from their vehicles. On the other hand, a sheriffs' department accustomed to concentrating upon preventative patrol, may have to acquire radar units and traffic investigation kits should it become obligated to provide traffic enforcement according to the terms of a selective service contract.

V. The Contract Process

There are many ways to develop a contract program. A few producer agencies have first designed detailed framework for contract programs and then initiated negotiations with potential recipient governments. Many other times, however, potential recipient governments have taken the lead and proposed contracting to producer agencies that may have never considered establishing a contract law enforcement program. The majority of successful producer agencies await contact by potential governments and utilize their existing programs as real world examples of what services are available and how they are delivered. Regardless of who first approaches whom, it is recommended that a standard contact process or "procurement cycle" be followed to structure program development as efficiently as possible.

The contract process consists of six steps. These steps may overlap in practice but they are interlinked, and each step should be largely completed before work is begun on the next. The six steps of the contract process are:

1) Conducting a feasibility study: The potential recipient government assesses what the local needs for better law enforcement actually are and determines if contracting is the most feasible means to satisfy those needs.

2) Requesting proposals: If the potential recipient government's determination is in favor of contracting, it adopts a resolution of intent to contract and requests proposals from producer agencies.

3) Developing the proposal: In response to the request for a proposal, the producer agency provides a statement of its contracting capabilities and a concrete plan for a contract program tailored to the requirements of the potential recipient government; after presenting its proposal, the producer agency stands ready to follow-up with additional information and assistance as requested.

4) Gaining acceptance: The prospect of contracting may meet active opposition from some groups within the community; even if it doesn't, the average citizen should be informed of what contract law enforcement means to him; to accomplish these tasks, the potential recipient government reaches out to persuade opponents of contracting, if any, and designates information to the public.

5) Negotiating the contract: The producer agency and potential recipient government decide exactly what type of contract configuration can best get the job done and draw up the contract - a functional statement of the major components of the contract program serving as a fixed reference point for final program development and implementation.

6) Implementing the contract program: The producer agency and recipient government collaborate to put the contract program into operation.

Interlocal Cooperation Act

Section.
25-20-101. Title.
25-20-102. Purpose.
25-20-103. Definitions.
25-20-104. Agreements for joint or cooperative action – Authority to make - requirements generally.
25-20-105. Agreements for joint or cooperative action - Filing - Interstate. compacts - Liability for damages.
25-20-106. Agreements for joint or cooperative action - Submission to and approval by state officer or agency controlling services or facilities
25-20-107. Appropriation of funds -Supplying of personnel or services
25-20-108. Contract for services from another agency Requirements – Limitations

25-20-101. Title.

This chapter may be cited as the "Interlocal Cooperation Act."

25-20-102. Purpose.

It is the purpose of this chapter to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.

25-20-103. Definitions

As used in this chapter, unless the context otherwise requires:

(1) "Public agency" means any school district, any political subdivision of this state, any agency of the state government or of the United States, any political subdivision of another state, water districts created under the provisions of 14- 116-101 et seq., governing body of a municipal electric utility as defined in 25-20-402, and fire departments organized under the laws of this state if the fire departments offer fire protection services to unincorporated areas and

have received approval by their quorum courts for participation in an interlocal cooperation agreement.

(2) "State" means a state of the United States and the District of Columbia.

25-20-104. Agreements for joint action - Authority to make – Requirements generally

(a) Any governmental powers, privileges, or authority exercised or capable of exercise by a public agency of this state alone may be exercised and enjoyed jointly with any other public agency of this state which has the same powers, privileges, or authority under the law and jointly with any public agency of any other state of the United States which has the same powers, privileges, or authority, but only to the extent that laws of the other state or of the United States permit the joint exercise or enjoyment.

(b) Any two (2) or more public agencies may enter into agreements with one another for joint cooperative action pursuant to the provisions of this chapter. Appropriate action by ordinance, resolution, or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before the agreement may enter into force.

(c) Any agreement for joint or cooperative action shall specify the following:

(1) Its duration;

(2) The precise organization, composition, and nature of any separate legal or administrative entity created thereby, together with the powers delegated to it, provided that the entity may be legally created;

(3) Its purposes;

(4) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefore;

(5) The permissible methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon the partial or complete termination; and

(6) Any other necessary and proper matters.

(d) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, in addition to the items enumerated in subdivisions (c)(1) and (c)(3)-(6) of this section, the agreement shall contain the following:

(1) Provisions for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented; and

(2) The manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking.

(e) No agreement made pursuant to this chapter shall relieve any public agency of any obligation or responsibility imposed upon it by law, except that, to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, performance may be offered in satisfaction of the obligation or responsibility.

(f)(1) Every agreement made under this section prior to and as a condition precedent to its entry into force shall be submitted to the Attorney General, who shall determine whether the agreement is in proper form and compatible with the laws of this state.

(2) The Attorney General shall approve any agreement submitted to him or her under this section unless he or she shall find that it does not meet the conditions set forth in this section and shall detail, in writing addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law.

(3) Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

(g) Financing of joint projects by agreement shall be as provided by law.

(h) In addition to other specific grants of authority as provided in the Arkansas Constitution and statutes and in addition to the formal cooperation authorized by this chapter, cities, towns, counties, and other units of government are authorized to associate and cooperate with one another on an informal basis without complying with the detailed procedure set out in this section.

(i) In addition to the legal or administrative entities which may otherwise be legally created under Arkansas statutes, public agencies may create a separate legal entity in the form of a public body corporate and politic pursuant to:

(1) Section 25-20-201 et seq. for the purpose of constructing, operating, and maintaining a public library system;

(2) Section 25-20-301 et seq. for the purpose of constructing, owning, operating, financing, and maintaining a consolidated waterworks system; or

(3) Section 25-20-501 et seq. for the purpose of constructing, operating, financing, and maintaining a consolidated wastewater system.

25-20-105. Agreements for joint cooperative action – Filing – Interstate compacts – Liability for damages.

(a) Prior to its entry into force, an agreement made pursuant to this chapter shall be filed with the county clerk and with the Secretary of State.

(b)(1) In the event that an agreement entered into pursuant to this chapter is between or among one (1) or more public agencies of this state and one (1) or more public agencies of another state or the United States, the agreement shall have the status of an interstate compact but, in any case or controversy involving performance or interpretation thereof or liability thereunder, the public agencies party thereto shall be real parties in interest. The state may maintain an action to recoup or otherwise make itself whole for any damages or liability which it may incur by reason of being joined as a party therein.

(2) The action shall be maintained against any public agencies whose default, failure of performance, or their conduct caused or contributed to the incurring of damage or liability by the state.

25-20-106. Agreements for joint or cooperative action - submission to and approval by state officer or agency controlling services or facilities.

(a) In the event that an agreement made pursuant to

this chapter shall deal in whole or in part with the provision of services or facilities with regard to which an officer or an agency of the state government has constitutional or statutory powers of control, the agreement, as a condition precedent to its entry into force, shall be submitted to the state officer or agency having the powers of control, the agreement, as a condition of precedent to its entry into force, shall be submitted to the state officer or agency having the power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the Attorney General pursuant to 25-20-104.

(b) This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the Attorney General.

25-20-107. Appropriation of funds - Supplying of personnel or services.

Any public agency entering into an agreement pursuant to this chapter may appropriate funds and may sell, lease, give, or otherwise supply the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking by providing personnel or services therefore which may be within its legal power to furnish.

25-20-108. Contract for services from another agency - Requirements -Limitations

(a) Any one (1) or more public agencies may contract with any one (1) or more other public agencies to perform any governmental service, activity, or undertaking which each of the public agencies entering into the contract is authorized by law to perform alone, provided that the contract shall be authorized by the governing body of each par to the contract. The contract shall set forth fully the purpose, powers, rights, objectives, and responsibilities of the contracting parties.

(b) However, nothing in this chapter authorizes, or shall be construed to authorize, any public agency to enter into any contract, agreement, or undertaking with any other public agency to purchase, condemn, or otherwise acquire any plant, property, facilities, or business owned or operated by any regulated public utility or pipeline company or to jointly construct or operate any such plant, property, or facility.

14-14-910. Interlocal agreements.

(a) GENERALLY. The county court of each county may contract, cooperate, or join with any one (1) or more other governments or public agencies, including any other county, or with any other political subdivisions of the state or any other states, or their political subdivisions, or with the United States to perform any administrative service, activity, or undertaking which any contracting party is authorized by law to perform.

(b)(1) DEFINITIONS. "county interlocal agreement" means any service contract entered into by the county court which establishes a permanent or perpetual relationship thereby obligating the financial resources of a county. Grant-in-aid agreements enacted through an appropriation ordinance shall not be considered an interlocal agreement.

(2) "Permanent or perpetual relationship" means for purposes of this section any agreement exhibiting an effective duration greater than one (1) year, twelve (12) calendar months, or an agreement exhibiting no fixed duration but where the apparent intent of the agreement is to establish a permanent or perpetual relationship. Such interlocal agreements shall be authorized by ordinance of the quorum court. Any interlocal agreement enacted by ordinance may provide for the county to;

(A) Cooperate in the exercise of any function, power, or responsibility;

(B) Share the services of any officer, department, board, employee, or facility; and

(C) Transfer or delegate any function, power, responsibility, or duty.

(c) CONTENTS. An interlocal agreement shall:

(1) Be authorized and approved by the governing body of each party to the agreement.

(2) Set forth fully the purposes, powers, rights, obligations, and responsibilities of the contracting parties; and

(3) Specify the following:

(A) Its duration;

(B) The precise organization, composition, and nature of any separate legal entity created;

(C) The purposes of the interlocal agreement;

(D) The manner of financing the joint or cooperative undertaking and establishing and maintaining a budget;

(E) The permissible methods to be employed in accomplishing the partial or complete termination of an agreement and for disposing of property upon partial or complete termination. The methods for termination shall include a requirement of six (6) months written notification of the intent to withdraw by the governing body of the public agency wishing to withdraw;

(F) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking including representation of the contracting parties on the joint board;

(G) The manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking; and

(H) Any other necessary and proper matters.

(d) SUBMISSION TO LEGAL COUNSEL. Every agreement shall, prior to and as a condition precedent to its final adoption and performance, be submitted to legal counsel who shall determine whether the agreement is in proper form and compatible with all applicable laws. The legal counsel shall approve any agreement submitted to him unless he finds it does not meet the conditions set forth in this section. Then he shall detail in writing addressed to the governing bodies of the public agencies concerned the specific reasons in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement within thirty (30) days of its submission shall constitute approval.

(e) SUBMISSION TO ATTORNEY GENERAL. Prior to and as a condition precedent to its final adoption and performance, every agreement including a state or a state agency shall be submitted to the Attorney General who shall

determine whether the agreement is in proper form and compatible with the laws of the State of Arkansas. The Attorney General shall approve any agreement submitted to him or her unless he finds it does not meet the conditions set forth in this section. Then he or she shall detail in writing addressed to the governing bodies of the public agencies concerned the specific respects in which the proposed agreement within thirty (30) days of its submission shall constitute approval.

Chapter 9 – SHERIFF FEES AND FUNDS

Sheriff's Communication & Equipment Fund:

21-6-307. Sheriffs.

Description of the Service	**Fees**

(a) The following fees shall be charged by each of the sheriffs of the several counties of the State of Arkansas:

(1) For serving every summons, capias, scire facias, attachment, writ of garnishment, writ of injunction, or subpoena ..... $ 30.00

(2) For serving a writ of execution 100.00

(3) For commission for receiving and paying money on execution or process when lands or goods have been taken into custody, advertised, or sold 10%

(4) For every return of a writ, summons, or subpoena, original or judicial 20.00

(5) For executing a writ of inquiry 20.00

(6) For executing a certificate of purchase for real estate under execution 20.00

(7) For making, executing, and subscribing a sheriff's deed to be paid by purchaser 30.00

(8) For serving each order, notice, or rule of any court 30.00

(9) For serving each notice to vacate 30.00

(10) For advertising goods or lands for sale 30.00

(11) For returning each execution or attachment 20.00

(12) For advertising elections in each voting precinct 20.00

(13) For delivering voter registration books for each voting precinct 20.00

(14) For serving warrant or order of arrest from any court 50.00

(15) For taking and entering every bail or delivery bond 20.00

(16) For attending every trial of a criminal or civil case of confession in open court 20.00

(17) For serving subpoena for special jurors 20.00

(b)(1) Seventy-five percent (75%) of all fees collected by the sheriff shall be paid into the county treasury in the manner provided by law, or to the person entitled to receive the money, or to his or her order, or to his or her attorney of record.

(2)(A) The remaining twenty-five percent (25%) of all fees collected by the sheriff shall be used by the sheriff to establish a special fund to be known as the communications facility and equipment fund.

(B) All funds so designated shall be invested by the sheriff in an interest-bearing account or certificate of deposit in one (1) or more banking institutions domiciled within the State of Arkansas and insured by the Federal Deposit Insurance Corporation.

(C) All sums paid into the communications facility and equipment fund by the sheriff may accumulate as to principal and interest until such time as the deposits or a portion thereof are needed by the sheriff to:

(i) Train operations staff;

(ii) Operate, equip, repair, or replace existing communications equipment;

(iii) Purchase additional communications equipment;

(iv) Otherwise improve a communications facility or system for the sheriff's department; or

(v) Purchase vehicles, weapons, or other equipment for the sheriff's department.

(D) At the discretion of the sheriff, any funds not needed by the sheriff for any of the purposes under this subdivision (b)(2) may be transferred to the county general fund.

(c) The court clerk shall on or before the fifteenth day of each month transmit to the sheriff the fees collected under this section, and the sheriff shall dispose of the fees as provided in this section.

(d) If more persons than one are named in a writ, process, or subpoena, fees shall be charged for each named, unless parties reside or are employed in the same location.

(e) The fees provided shall be for serving of process from any of the several courts of the county.

(f) The fees set forth in this section shall be the sole and exclusive fees to be charged by the sheriffs of the several counties of this state for each of the services enumerated in this section.

A.C.A. § 12-29-119—Inmate Telephone Calls

For an inmate making an intrastate telephone call from a Division of Correction facility or Division of Community Correction facility:

(1) The cost per minute shall not be more than the maximum cost per minute of an interstate inmate telephone call as determined by the Federal Communications Commission as of January 1, 2021; and

(2) Ancillary service charges shall not be permitted except an ancillary service charge of a type and up to an amount authorized by the Federal Communications Commission for an interstate inmate telephone call as of January 1, 2021.

A.C.A. § 12-41-105—Commissions from inmate telephone services and profits inmate commissary services

(a)(1)(A) Commissions derived from inmate telephone services, if the inmate telephone service is provided by the county or regional detention facility, and profits earned from inmate commissary services provided in the various county and regional detention facilities in the state shall be deposited with the county treasurer of the county in which the county or regional detention facility is located.

(B) The county treasurer shall credit the funds collected under subdivision (a)(1)(A) of this section to the county sheriff's office fund.

(2)(A) The county sheriff's office fund is an agency fund defined by the County Financial Management System as a fund used to account for funds held by the county treasurer as an agent for a governmental unit until transferred by check or county court order to the county sheriff or other governmental unit for the intended uses of the funds.

(B) The transfer of funds to the county sheriff or other governmental unit under this subsection is not subject to an appropriation by the quorum court or to the county claims process.

(3) Arkansas Legislative Audit shall review actions described in this subsection for substantial compliance with this section.

(b)(1) Of the commissions and profits deposited into the county sheriff's office fund in each county under subsection (a) of this section, one hundred percent (100%) shall be credited to the county sheriff's office communications facility and equipment fund under § 21-6-307.

(2) Each county sheriff's office shall allocate for the maintenance and operation of the county jail up to seventy-five percent (75%) of the commissions and profits deposited into the county sheriff's office communications facility and equipment fund.

(c) This section does not apply to funds derived from inmate telephone services or inmate commissary services provided in Division of Correction facilities or Division of Community Correction facilities or in municipally owned detention facilities or in county detention facilities in counties with a population of one hundred seventy-five thousand (175,000) or more according to the latest federal decennial census.

(d) For an inmate making an intrastate telephone call from a regional or local detention facility:

(1) The cost per minute shall be thirty cents (30¢) or no more than the maximum cost per minute of an interstate inmate telephone call as determined by the Federal Communications Commission as of January 1, 2021, whichever is higher; and

(2) Ancillary service charges shall not be permitted except an ancillary service charge of a type and up to an amount authorized by the Federal Communications Commission for an interstate inmate telephone call as of January 1, 2021.

BEST PRACTICES for Receiving, Disbursing and Reporting Prisoner Telephone Commissions & Profits Earned from Prisoner Commissary Services (A.C.A. § 12-41-105)

Step 1

Sheriff's Office/Jail or vendor sends check to the Treasurer for the amount of commissions from prisoner telephone services (revenue code 7804) and profits from prisoner commissary services (revenue code 7805). Commissary service profits are derived from the sale of any products/services to inmates. [ACA 12-41-105(a)(1)]

Step 2

Treasurer credits these monies to the County Sheriff's Office Fund (Fund 6017), an agency fund. This fund is used to account for monies held by the Treasurer as an agent for the Sheriff until transferred. The transfer of monies is not subject to appropriation by the Quorum Court. [ACA 12-41-105 (a)(2)(A)(B)]

Step 3

The transfer of 100% of these monies is made to the Communications Facility and Equipment Fund monthly. If the Sheriff has this fund on his/her books, as established by law, issue a Treasurer's check from the County Sheriff's Office Fund to the Sheriff. If the Treasurer has this fund on the books of the county, as requested by the Sheriff, use a county court order to transfer these

monies from the County Sheriff's Office Fund to the Communications Facility and Equipment Fund (Fund 3014). [ACA 12-41-105(b)(1)]

Step 4

The County Sheriff **must** annually allocate a percentage (up to 75%) of the commissions and profits credited to the Communications Facility and Equipment Fund for the maintenance and operation of the county jail. [ACA 12-41-105(b)(2)]

Step 5

The Sheriff shall provide a reconciled accounting of the Sheriff's Communication Facility and Equipment Fund, including the receipts, disbursements and balance, to the County Treasurer by the tenth day of each calendar month. This same type reporting is required for any other operational fund that is held by the Sheriff and not on the books of the County Treasurer. [ACA 14-25-112(f)]

SAMPLE COURT ORDER:

In the County Court of _____ County, Arkansas

IN THE MATTER OF:

Transfer of funds from the Sheriff's Office Fund to the Communications Facility & Equipment Fund

County Court Order No: _____

It comes before this Court that there is a need to transfer moneys from the Sheriff's Office Fund to the Communication Facility and Equipment Fund in accordance with the provisions of § 12-41-105.

This Court finds that commissions from prisoner telephone services and profits from prisoner commissary services are deposited by the County Sheriff with the County Treasurer for credit to an agency fund on the books of the Treasurer called the County Sheriff's Office Fund. These funds, in accordance with law, are to then be credited to the Communications Facility and Equipment Fund.

IT IS THEREFORE ORDERED, that _____ County Treasurer _____ _____ transfer the commissions and profits held in the County Sheriff's Office Fund to the Communications Facility and Equipment Fund. **It is further Ordered,** that the County Treasurer transfer these moneys on a regular basis throughout the year as the Sheriff makes settlement with the Treasurer.

IT IS SO ORDERED on this _____ day of _____, 2016.

_____
____ _____, _____ County Judge

ATTEST: _____
_____ _____, _____ County Clerk

12-41-107. Medical services billing to a local correctional facility.

(a) As used in this section:

(1) "Healthcare professional" means an individual or entity that is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession or as a function of an entity's administration of the practice of medicine;

(2) "Local correctional facility" means a county jail, a city jail, regional jail, criminal justice center, or county house of correction that is not operated by the Department of Correction, the Department of Community Correction, or a federal correctional agency; and

(3) "Medicaid reimbursement rate" means the prevailing cost paid by the Arkansas Medicaid Program for a

particular medical service or treatment established by the Division of Medical Services of the Department of Human Services in the Arkansas Medicaid Program fee schedules for a particular medical service, treatment, or medical code.

(b) A healthcare professional that provides medical service or treatment to a local correctional facility under this chapter for the benefit of an inmate housed in a local correctional facility for which the local correctional facility is responsible for payment shall not charge the local correctional facility more than the Medicaid reimbursement rate for the same or similar medical service or treatment.

AG OPINION NO. 2002-008: The Commissions from the prisoner telephone services authorized under ACA 12-41-105 are to be placed into the Sheriff's Communications Facility and Equipment Fund which is created under ACA 21-6-307. The law authorizes up to 50% to be used for the maintenance and operation of the jail, the remainder is to be used as provided by ACA 21-6-307(b)(2)(C): to operate, repair, purchase, equip or replace communication equipment, etc.

AG OPINION NO. 2003-074: The 25% used to establish the communication facility and equipment fund under ACA 21-6-307 must be placed in an interest bearing account and may not simply be placed into the budget a line item and used by the Quorum Court. An illegal exaction case may exist where funds that were supposed to be available to a sheriff under ACA 21-6-307 are misappropriated or misdirected.

AG OPINION NO. 2004-277: Phone cards may be sold to prisoners using commissary funds. ACA 12-41-105 requires the commissions on telephone services, including profits, be credited to the sheriff's facility equipment and communication fund in the county treasury. These commissions must be placed in the fund and may not be transferred to the county general fund.

AG OPINION NO. 2006-124: A Sheriff may not enter into a binding contract for telephone service without authorization of the county judge. The commissions must be submitted to the county treasurer and placed into the sheriff's facility equipment and communication fund. See also AG Opinion No. 2018-105.

AG OPINION NO. 2015-147: Arkansas Code Annotated § 21-6-302 provides that county treasures have a duty to collect a 2% commission on all money they handle. Revenues derived from prisoner telephone services and profits earned from prisoner commissary services are subject to the 2% commission under § 21-6-302.

Sheriff's Booking and Administration Fee & Jail Fund:

12-41-505. Expenses and support.

(a)(1) Every person who is committed to the common jail of the county by lawful authority for any criminal offense or misdemeanor, if he or she is convicted, shall pay the expenses in carrying him or her to jail and also for his or her support from the day of his or her initial incarceration for the whole time he or she remains there.

(2) The expenses which accrue shall be paid as directed in the act regulating criminal proceedings.

(b)(1) A person convicted of a felony or a Class A misdemeanor shall be assessed a booking and administration fee of forty dollars ($40.00).

(2)(A) The booking and administration fee described in subdivision (b)(1) of this section shall be assessed upon the conviction of a defendant and included in the judgment of conviction entered by the court.

(B) If a court suspends imposition of sentence on a defendant or places him or her on probation and does not enter a judgment of conviction, the court shall impose the booking and administration fee as a cost.

(3) The booking and administration fee assessed under subdivision (b)(1) of this section shall be deposited into the county treasury by the collecting officer to be credited and used in the following manner:

(A) Ten percent (10%) of each booking and administration fee collected shall be deposited into or credited to the county sheriff's office fund described in § 12-41-105 by the county treasurer, and then transferred by check on a monthly basis using a uniform remittance form provided by the Treasurer of State, to the Treasurer of State for the Law Enforcement Training Fund; and

(B) The remaining funds shall be deposited into or credited to a special revenue fund and used for the maintenance, operation, and capital expenditures of a county jail or regional detention facility and for certificate pay for law enforcement and jail personnel.

(c) The property of the person shall be subject to the payment of the expenses and the booking and administration fee.

AG OPINION NO. 2007-304: Under current law, 12-41-505 a county that does not operate or maintain a jail or regional jail and pays another detention to house their prisoners must reserve the booking and administration fee until such time as the county does operate or maintain a jail or participates in a regional jail facility.

AG OPINION NO. 2008-088: ACA 12-41-505 sets a mandatory fee for booking and administration. The AG says that: "In the absence of a statutorily set fee or the delegation to allow for a fee for expenses of carrying a prisoner to jail, uncertainty exists on the manner in which to impose such a fee. Expenses for feeding and supporting prisoners is not set by law, daily housing fee may be set and imposed by the Quorum Court by ordinance requiring convicted prisoners to pay for his or her support from the day of initial incarceration for the whole time the prisoner remains there. The imposition and recovery of actual medical costs may be problematic {to the extent it is not an amount imposed by the judgment of conviction; and it not for an amount established by law such as the booking and administration fee}.

Sheriff's Fine & Jail Fund:

16-17-129. Levy to defray cost of incarcerating city and county prisoners.

(a)(1)(A) In addition to all fines now or as may hereafter be provided by law, the governing body of each town or city in which a district court is located may by ordinance levy and collect an additional fine not to exceed twenty dollars ($20.00) from each defendant upon each

conviction, each plea of guilty or nolo contendere, or each bond forfeiture in all cases in the first class of accounting records as described in § 16-17-707.

(B) Except as provided in subdivision (a)(1)(C) of this section, all sums collected from the additional fine described in subdivision (a)(1)(A) of this section shall be paid into the town or city treasury to be deposited into a fund to be used exclusively to help defray the cost of incarcerating town or city prisoners, including the construction and maintenance of the town or city jail and payments to other entities for incarcerating town or city prisoners.

(C) All sums collected from the additional fine described in subdivision (a)(1)(A) of this section in any district court that is funded solely by the county shall be paid into the county treasury to be deposited into a fund to be used exclusively to help defray the cost of incarcerating county prisoners, including the construction and maintenance of the county jail.

(2)(A) In addition to all fines now or as may hereafter be provided by law, the governing body of each town or city in which a city court is located may by ordinance levy and collect an additional fine not to exceed twenty dollars ($20.00) from each defendant upon each conviction, each plea of guilty or nolo contendere, or each bond forfeiture for any misdemeanor or traffic violation in the city court of the city or town.

(B) All sums collected from the additional fine described in subdivision (a)(2)(A) of this section shall be paid into the town or city treasury to be deposited into a fund to be used exclusively to help defray the cost of incarcerating town or city prisoners, including the construction and maintenance of the town or city jail and payments to other entities for incarcerating town or city prisoners.

(b)(1) In addition to all fines now or as may hereafter be provided by law, the quorum court of each county may by ordinance levy an additional fine not to exceed twenty dollars ($20.00) to be collected from each defendant upon each conviction, each plea of guilty or nolo contendere, or each bond forfeiture in all cases in the first and second class of accounting records as described in § 16-17-707. A county ordinance enacted under this subdivision (b)(1) applies to all district courts in the county.

(2) All sums collected from the additional fine described in subdivision (b)(1) of this section as to cases in the first class shall be paid into the county treasury to be deposited into a fund to be used exclusively to help defray the cost of:

(A) The construction, maintenance, and operation of the city, county, or regional jail;

(B) Deferring the costs of incarcerating county prisoners held by a county, a city, or any entity;

(C) The transportation and incarceration of city or county prisoners;

(D) The purchase and maintenance of equipment for the city, county, or regional jail; and

(E) Training, salaries, and certificate pay for jail personnel.

(3) All sums collected from the additional fine described in subdivision (b)(1) of this section as to cases of the second class shall be paid into the county treasury to be deposited into a fund to be used exclusively to help defray the cost of:

(A) The construction, maintenance, and operation of the city, county, or regional jail;

(B) Deferring the costs of incarcerating county prisoners held by a county, a city, or any entity;

(C) The transportation and incarceration of city or county prisoners;

(D) The purchase and maintenance of equipment for the city, county, or regional jail; and

(E) Training, salaries, and certificate pay for jailers and deputy sheriff's.

(c)(1) In counties having a county regional detention facility, the additional fine levied by the county under this section shall be deposited into a special fund within the county treasury.

(2) The revenues generated by the additional fine shall be used exclusively for maintenance, operation, and capital expenditures of the regional detention facility.

(d) It is the intention of the General Assembly that the revenues derived from the additional fines levied under this section shall not offset or reduce funding from other sources for the maintenance, operation, and capital expenditures of the regional detention facilities.

(e)(1) The additional fine authorized in subsection (a) of this section shall apply to each charge, count, violation, or offense that a defendant pleads guilty or nolo contendere to, is found guilty of, or forfeits bond for, including each misdemeanor or traffic violation.

(2) The fine may be imposed: (A) By all courts within a city of the first class, city of the second class, incorporated town, or county in this state that has by ordinance levied the fine; and (B) In all cases classified as county cases or city cases.

AG OPINION NO. 2009-172: An ordinance by the Quorum Court establishing an additional fine, not to exceed $20 for the jail under 16-17-129 applies to call cases in the district court, the county docket and the city docket. An ordinance of a city establishing an additional fine, not to exceed $20 for the jail under 16-17-129 applies to only the city docket. These are separate fines.

AG OPINION NO. 2009-059: If a county does not charge a city for keeping prisoners, the fine imposed by city ordinance under 16-17-129 is not required to be paid to the county, rather the fund shall exclusively be used to help defray the costs of incarcerating city prisoners, including the costs of construction, maintenance of a city jail or payment to other entities for incarcerating city prisoners. A county may assess a daily fee for prisoners under 12-41-506 or county and city officials may enter into an agreement under 12-41-503, including assignment of the fines under 16-17-129 collected by the city. If a county solely funds the district court, the funds collected by the city must be paid unto the county treasury.

AG OPINION NO. 2009-148: ACA 27-37-706 prohibits the imposition of additional fees or court costs for seat belt violations. However, 27-37-706 does not prohibit the imposition of additional fines, such as may be established by the Quorum Court or City Council under 16-17-129. If the county and/or city have enacted an additional fine, not to

exceed $20, for each violation in district court under 16-17-129, it shall be assessed for seat belt violations.

AG OPINION NO. 2003-288: The fines established by the Quorum Court or City Council under 16-17-129 are mandatory. The district court judge must impose these fines just like all other fines under statute. Pursuant to ACA 16-17-132, 16-13-709 and 16-17-132 all fines, penalties and costs received shall continue to be collected and distributed in the manner provided by current laws affecting the district courts, unless and until the General Assembly establishes a new method of distribution. ACA 16-17-132. The governing body of a political subdivision that contributes to the expenses of a district court shall designate a county or city official, agency or department who shall be primarily responsible for the collection of all fines assessed in the district courts.

Sheriff's Hot Check Fee:

21-6-411. Prosecuting attorneys — Certain checks, orders, drafts, or other forms of presentment involving the transmission of account information

(a) A prosecuting attorney may collect a fee if his or her office collects and processes a check, order, draft, or other form of presentment involving the transmission of account information if the check, order, draft, or other form of presentment involving the transmission of account information has been issued or passed in a manner which makes the issuance or passing an offense under:

(1) The Arkansas Criminal Code;

(2) The Arkansas Hot Check Law, §§ 5-37-301 -- 5-37-306; or

(3) Section 5-37-307.

(b) A prosecuting attorney may collect a fee from any person issuing a bad check as described in subsection (a) of this section. The amount of the fee shall not exceed:

(1) Twenty-five dollars ($25.00) if the face amount of the check, order, draft, or other form of presentment involving the transmission of account information does not exceed one hundred dollars ($100);

(2) Forty-five dollars ($45.00) if the face amount of the check, order, draft, or other form of presentment involving the transmission of account information is greater than one hundred dollars ($100) but does not exceed three hundred dollars ($300);

(3) Sixty-five dollars ($65.00) if the face amount of the check, order, draft, or other form of presentment involving the transmission of account information is greater than three hundred dollars ($300) but does not exceed five hundred dollars ($500); and

(4) Ninety dollars ($90.00) if the face amount of the check, order, draft, or other form of presentment involving the transmission of account information is greater than five hundred dollars ($500).

(c) If the person from whom the fee is collected was a party to the offense of forgery, under §§ 5-37-101 and 5-37-201 -- 5-37-214, by altering the face amount of the check, order, draft, or other form of presentment involving the transmission of account information, the face amount as altered governs for purposes of determining the amount of the fee.

(d) Fees collected under this section shall be deposited into a special fund to be administered by the prosecuting attorney.

(e)(1) In those counties in which the sheriff is operating a hot check program and the prosecuting attorney is not operating such a program on September 20, 1985, the sheriff shall be entitled to continue the program as long as he or she elects to do so and the prosecuting attorney shall not initiate any such program in the county unless the sheriff in the county discontinues his or her program.

(2) In those counties in which the sheriff operates a hot check program, the sheriff's office shall be entitled to the same fees as provided in this section, but all fees shall be paid into an account for the sheriff's office and shall be subject to appropriation by the quorum court to be used to defray the cost of the hot check program and other costs of the sheriff's office.

(f) This section is cumulative to all other acts and shall not repeal any other act.

COUNTY ADMINISTRATION OF JUSTICE AND COUNTY JAIL FUND:

16-10-307. County administration of justice fund.

(a) There is hereby created in each county a fund in the office of the county treasurer to be known as the "county administration of justice fund".

(b) The county administration of justice fund shall be used to defray a part of the expenses of the administration of justice in the county. From the fund, the county shall continue to finance the following county agencies and programs which are currently funded, in whole or in part, by filing fees and court costs, at a funding level equal to not less than the greater of the amount which was collected by the county from filing fees and court costs for the agency or program in the calendar year ending December 31, 1994, or the amount appropriated by ordinance enacted prior to December 31, 1994, or on February 13, 1995, or on February 14, 1995, or by resolution dated February 9, 1995, to the agency or program for the calendar year ending December 31, 1995:

(1) The prosecuting attorney fund, including all grant funds awarded and appropriated for the calendar year ending December 31, 1995;

(2) The prosecuting attorney's victim-witness program fund;

(3) The public defender/indigent defense fund and public defender investigator fund, including all grant funds awarded and appropriated for the calendar year ending December 31, 1995;

(4) The county law library fund;

(5) The county jail fund; and

(6) The intoxication detection equipment fund.

(c)(1)(A) The county administration of justice fund of each county may retain an amount equal to the amount which was collected by the county from court costs and filing fees for county administration of justice expense in the calendar year ending December 31, 1994, or the amount appropriated from court costs and filing fees by ordinance enacted prior to December 31, 1994, or on February 13, 1995, or on February 14, 1995, or by resolution dated February 9, 1995, for county administration of justice

expense from court costs and filing fees for the calendar year ending December 31, 1995, plus, for calendar years 1995 — 2001, an additional amount based upon the average percentage increase in the Consumer Price Index for All Urban Consumers or its successor, as published by the United States Department of Labor for the two (2) years immediately preceding.

(B)(i) The amount retained during calendar years 2002, 2003, 2004, and 2005 shall be the amount retained during calendar year 2001.

(ii) Except as provided in subdivision (c)(1)(B)(iii) of this section, for calendar years beginning 2006 and each calendar year thereafter, an additional amount shall be added to the amount to be retained based upon the average percentage increase in the Consumer Price Index for All Urban Consumers or its successor, as published by the United States Department of Labor for the two (2) years immediately preceding.

(iii) The provisions of subdivision (c)(1)(B)(ii) of this section shall not be effective if the Chief Fiscal Officer of the State determines that the additional amount retained under subdivision (c)(1)(B)(ii) of this section has exceeded one million dollars ($1,000,000) in a calendar year, and any additional amount to be retained must be authorized by the General Assembly.

(C) All local ordinances of the counties and cities authorized and adopted under § 24-8-318 shall remain in full force and effect.

(2) For the calendar year beginning January 1, 1998, the base amount to be retained shall be:

(A) Increased by any increase in the Consumer Price Index for All Urban Consumers as provided for in subdivision (c)(1) of this section; and

(B) Decreased by eighty-five percent (85%) of the total dollar amount which was certified by the county as having been collected during calendar year 1994 and for the purpose of funding the office and operation of the public defender and public defender investigator.

(d) Nothing in this section shall prevent the county from funding any additional costs for the administration of justice from these or other county funds.

(e) The county shall remit on or before the fifteenth day of each month all sums received in excess of the amounts necessary to fund the expenses enumerated in subsections (b) and (c) of this section during the previous month from the uniform filing fees provided for in § 21-6-403 and the uniform court costs provided for in § 16-10-305 to the Department of Finance and Administration, Administration of Justice Funds Section, for deposit in the State Administration of Justice Fund.

Sheriff Boating Safety & Enforcement Fund:

27-101-111. Distribution of funds.

(a) On or before the fifth of the month next following the month during which the funds shall have been received by him or her, the Treasurer of State shall distribute the funds in the manner provided in this section:

(1) Three percent (3%) of the amount to the Constitutional Officers Fund and the State Central Services Fund to be used for defraying the necessary expenses of the state government; and

(2) Ninety-seven percent (97%) of the amount as follows:

(A) Eight percent (8%) to the Constitutional Officers Fund and the State Central Services Fund;

(B) Thirty-four percent (34%) to the Game Protection Fund for use by the Arkansas State Game and Fish Commission as provided by law;

(C) Thirty-four percent (34%) to the County Aid Fund, which, on or before the tenth of the month following the end of each calendar quarter, shall be remitted by state warrants to the various county treasurers in the proportions thereof as between the respective counties that the total of the fees produced from each county bears to the total of the fees produced from all counties as certified by the Director of the Department of Finance and Administration to the Treasurer of State; and

(D) Twenty-four percent (24%) to the Marine Sanitation Fund for use by the Department of Health to administer a marine sanitation program.

(b) Upon receipt of any fees, each county treasurer shall deposit them into the county treasury to the credit of the boating safety and enforcement fund, if the county sheriff of that county has established a patrol on the waterways within the county.

(c)(1) In the event the county sheriff has not established a patrol on the waterways within the county and if either the county or any city or town within a county, or both, has established an emergency rescue service, each county treasurer shall deposit his county's share of the total fees collected into the county emergency rescue fund for use exclusively by either the county or the cities within the county, or both, for operating and maintaining emergency rescue services within the county and cities within the county. After the treasurer receives the funds, he shall divide the funds in the county emergency rescue fund equally among the county and the cities within the county, if any, having emergency rescue services.

(2) Otherwise, the fees shall be deposited into the Game Protection Fund for use by the Arkansas State Game and Fish Commission.

Sheriff Drug Enforcement Funds:

14-21-201. Establishment of drug enforcement fund.

(a) Ordinance. Each quorum court may by ordinance establish a drug enforcement fund. The ordinance shall set a maximum amount for the fund, not to exceed ten thousand dollars ($10,000). The drug enforcement fund shall be administered by the county sheriff in accordance with the provisions and procedures of this subchapter. All funds shall initially be deposited in a drug enforcement fund bank account. The bank account shall be established at a bank located in the State of Arkansas and authorized by law to receive the deposit of public funds.

(b) Source of funds. The source of all funds deposited in the drug enforcement fund shall be funds appropriated by the quorum court. The initial funding and any subsequent reimbursements to the drug enforcement fund shall be appropriated by the quorum court and subject to the normal disbursement procedures required by law. No funds from other sources, including seized property, shall be deposited into the drug enforcement fund.

14-21-202. Restrictions on use of funds.

(a) Drug enforcement funds may only be used for direct expenses associated with the investigation of the criminal drug laws of this state, such as, but not limited to, the purchase of evidence, payment of informants, relocation and/or security of witnesses, emergency supply purchases, and emergency travel expenses.

(b) Drug enforcement funds may not be used for equipment purchases or leasing, salaries or wages, professional services, training, or any other purpose not directly related to a criminal drug investigation. In addition, these funds may not be used for administrative costs associated with the sheriff's office.

14-21-203. Approval of claims by county judge.

(a) After a quorum court has approved a proper ordinance establishing a drug enforcement fund, set the maximum amount of the fund, and appropriated funds for the fund, the county judge may approve a county claim for the initial establishment of the drug enforcement fund.

(b) If adequate appropriations and funds are available, the drug enforcement fund may be replenished upon presentation and approval of a claim as provided in the normal county disbursement procedures. The total amount of funds held in the drug enforcement fund bank account and cash funds held by the sheriff's office shall not exceed the maximum amount established by the quorum court.

Bail bond Fees and Funds:

14-52-111. Fees for bail or delivery bond. A municipal police department in this state may charge and collect a fee of twenty dollars ($20.00) for taking and entering a bail or delivery bond.

17-19-111. Fees.

(a) Notwithstanding any other provisions of this chapter to the contrary, and notwithstanding any other provisions of Arkansas law to the contrary, a professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 is hereby required to charge, collect, and remit the following fees into the Bail Bondsman Board Fund for the support, personnel, maintenance, and operations of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board and for the Domestic Peace Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence Commission, in addition to any other fees, taxes, premium taxes, levies, or other assessments imposed in connection with the issuance of bail bonds under Arkansas law.

(b)(1) In addition to the bail or appearance bond premium or compensation allowed under § 17-19-301, each licensed professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 shall charge and collect as a nonrefundable fee for the Bail Bondsman Board Fund an additional ten-dollar fee per bail bond for giving bond for each and every bail and appearance bond issued by the licensed professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 by or through its individual licensees.

(2) The fees shall be collected quarterly and then reported and filed with the board no later than fifteen (15) calendar days after the end of each quarter.

(3) The notarized quarterly reporting form and a notarized annual reconciliation form as to all fees collected for the Bail Bondsman Board Fund shall be filed by each professional bail bond company on forms prescribed by the board and at the times and in the manner as the board shall prescribe in conformity with this section.

(4) A paper-processing charge of fifteen dollars ($15.00) shall be collected on each bail bond in order to defray the surety's costs incurred by the quarterly and annual reporting requirements contained herein and to further defray the surety's costs incurred in the collection of all fees due, owing, and collected on behalf of the Bail Bondsman Board Fund and the surety's costs incurred in the preparation of all required reports submitted in conformance with the standards established by the American Institute of Certified Public Accountants.

(c)(1) The board may, in its discretion, grant an extension for the filing of the report and fees for good cause shown upon timely written request.

(2) Absent an extension for good cause shown, each licensed professional bail bond company failing to report or pay these fees shall be liable to the Bail Bondsman Board Fund for a monetary penalty of one hundred dollars ($100) per day for each day of delinquency.

(3) The board may pursue any appropriate legal remedies on behalf of the Bail Bondsman Board Fund to collect any delinquent fees and penalties owed as special revenues.

(d)(1) upon collection of the fees and any monetary penalties, the board shall deposit or fund as special revenues:

(A) Sufficient fees and penalties directly into the Bail Bondsman Board Fund to provide for the personal services and operating expenses of the board; and

(B) The remainder of all fees and penalties directly into the Domestic Peace Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence Commission.

(2) The fees and penalties shall be in addition to all other fees, licensure or registration fees, taxes, assessments, levies, or penalties payable to any federal or state office, court, agency, board, or commission or other public official or officer of the state, or its political subdivisions, including counties, cities, or municipalities, by a professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102.

(3)(A) Each individual bail bondsman is required to assist in collection of the fees but is exempt from the duty and responsibility of payment of the fees to the Bail Bondsman Board Fund unless he or she misappropriates or converts such moneys to his or her own use or to the use of others not entitled to the fees.

(B) In that case, the board shall proceed on behalf of the Bail Bondsman Board Fund with any civil or criminal remedies at its disposal against the individual responsible.

(C) Upon criminal conviction of the individual responsible for fraudulent conversion of the moneys due the Bail Bondsman Board Fund, the individual responsible shall

pay restitution to the Bail Bondsman Board Fund, and the court shall incorporate a finding to that effect in its order.

(D) Absent substantial evidence to the contrary, the violations of the individual may be attributed to the employing bail bond company, and any criminal or civil court may, in its discretion and upon substantial evidence, order the employing bail bond company to pay restitution to the Bail Bondsman Board Fund on behalf of the responsible individual and shall incorporate that finding into its order.

(e) For purposes of any statutory security deposit Arkansas law requires of professional bail bond companies, including, but not limited to, the deposit under § 17-19-205, the payment of the fees required by this section is considered to be a duty of the licensee, so as to allow the board on behalf of the Bail Bondsman Board Fund to make a claim against any such deposit for the fees required by this section and any penalties owed thereon, up to the limit of any security deposit.

(f) Under no circumstances shall the fees or penalties thereon held in or for deposit into the Bail Bondsman Board Fund as special revenues be subject to any tax, levy, or assessment of any kind, including, but not limited to, any bond forfeiture claims, any garnishment or general creditors' claims, any remedies under Title 16 of this Code, or other provisions of Arkansas law.

17-19-301. Premiums.

(a) With the exception of other provisions of this section, the premium or compensation for giving bond or depositing money or property as bail on any bond shall be ten percent (10%), except that the amount may be rounded up to the nearest five-dollar amount.

(b) The minimum compensation for giving bond or depositing money or property as bail on any bond shall be not less than fifty dollars ($50.00).

(c) If a bail bond or appearance bond issued by a licensee under this chapter must be replaced with another bail bond or appearance bond because of the licensee's violation of any provision of the laws of this state or any rule, regulation, or order of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board, the licensee who violated the provision and who caused the replacement to be required shall pay all the premium amount for the replacement bond, in an amount not to exceed the amount of the original bond, without any contribution from the respective defendant or principal.

(d) (1) (A) In addition to the ten-percent bail or appearance bond premium or compensation allowed in subsection (a) of this section, and starting on July 1, 2013, each licensed professional bail bond company, sheriff, or keeper of the jail shall charge and collect as a nonrefundable administrative and regulatory fee for the board an additional ten dollars ($10.00) per bond fee for giving bond for every bail and appearance bond issued by the licensed professional bail bond company by or through its individual licensees, sheriffs, or keepers of the jail.

(B) The administrative and regulatory fees payable by these companies to the Bail Bondsman Board Fund for the support and operation of the board, and collected by the bail bond companies, sheriffs, or keepers of the jail as required by this section, shall be reported and filed with the board no later than fifteen (15) calendar days after the end of each calendar quarter, contemporaneous with the professional bail bond company's filing of its quarterly bail bond report with the board.

(C) A notarized annual reconciliation of all fees collected in the preceding calendar year for the Bail Bondsman Board Fund shall be filed by each licensed professional bail bond company at a time and on forms prescribed by the board.

(D) The Executive Director of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board may grant an extension for good cause shown upon timely written request.

(E) The administrative and regulatory fees payable by the bail bond companies, sheriffs, or keepers of the jail to the Bail Bondsman Board Fund shall not exceed ten dollars ($10.00) per bond, as required by this subchapter, exclusive of statutory licensure fees elsewhere in this chapter.

(F) Upon collection of the fees and any monetary penalties, the board shall deposit as special revenues:

(i) Sufficient fees and penalties directly into the Bail Bondsman Board Fund to provide for the personal services and operating expenses of the board under subsection (g) of this section; and

(ii) The remainder of all fees and penalties directly into the Domestic Peace Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence Commission.

(2) (A) Absent an extension granted by the executive director for good cause to a company and in addition to any license suspension or revocation, the executive director may order after notice and a hearing a professional bail bond company failing timely to report or pay the regulatory fee to the Bail Bondsman Board Fund by and through the executive director shall be liable to the Bail Bondsman Board Fund for a monetary penalty of one hundred dollars ($100) per day for each day of delinquency.

(B) The board may pursue any appropriate legal remedies on behalf of the Bail Bondsman Board Fund to collect any delinquent fees and penalties owed under this section as special revenues to the Bail Bondsman Board Fund.

(3) Upon collection of the regulatory fees and any monetary penalties payable to the Bail Bondsman Board Fund and assessed under this section, the executive director shall deposit all fees and penalties directly into the Bail Bondsman Board Fund as special revenues.

(4) (A) Upon failure of the bail bond company to remit the fees timely, the board may pursue civil legal remedies against the noncomplying bail bond company on behalf of the Bail Bondsman Board Fund to recover the balance of the fees and any penalties owed.

(B) (i) The board may also fine or suspend or revoke the license of any professional bail bond company failing to make a quarterly report or remit or pay timely the fees required by this section.

(ii) The board may promulgate rules for enforcement.

(5)(A) Other than sole proprietors licensed as professional bail bond companies, individual bail bondsmen are exempt from the duty of payment of the administrative

and regulatory fees to the Bail Bondsman Board Fund, except that the individual licenses of individual employees of the professional bail bond company may be suspended or revoked by the board under the administrative procedures provided in this chapter if the individual licensee fails to comply with his or her duties in proper collection of the bail bond premiums earmarked for later payment to the Bail Bondsman Board Fund under this subsection, if he or she converts the moneys to his or her own use, or if he or she commits other infractions in regard to collection of such premium amounts.

(B) In those instances, the violations of the individual may in the board's discretion be attributed to the employing professional bail bond company for good cause shown, and the license of the employing professional bail bond company may be sanctioned by the executive director under the administrative procedures provided in this chapter.

(C) Further, upon criminal conviction of the individual bondsman for theft of property in connection with fraudulent conversion of those premium amounts due the Bail Bondsman Board Fund, the board shall revoke the individual's license and fine or suspend or revoke the license of the employing professional bail bond company if it assisted the individual in such fraudulent conduct.

(6)(A) For purposes of § 17-19-205 requiring the professional bail bond company's deposit of a letter of credit or certificate of deposit for the faithful performance of its duties, the company's payment of the administrative and regulatory fee required by this subsection is the duty of the licensee so as to allow the executive director to make a claim against the security deposit required in § 17-19-205 on behalf of the Bail Bondsman Board Fund for the balance of any owed and unpaid administrative and regulatory fees the professional bail bond company still owes to the Bail Bondsman Board Fund, and the executive director shall promptly make claims against security deposits on behalf of the Bail Bondsman Board Fund, up to the limit of the company's deposit for any remaining fee balance due, in the manner provided in this subchapter for any claim against the deposit required in this subchapter.

(B) Deposits held for the Bail Bondsman Board Fund, or fees or any moneys deposited into the Bail Bondsman Board Fund are not subject to any levy or assessment of any kind, including forfeiture claims, misconduct claims, or general creditor claims of the bail bond company, subject to garnishment or other creditors' remedies under Title 16 of this Code or other provisions of Arkansas law.

(e)(1) In addition to the premiums, compensation, and fees allowed in subsections (a) and (d) of this section, each sheriff, keeper of the jail, or bail bond company shall charge and collect twenty dollars ($20.00) as a nonrefundable fee for the Arkansas Public Defender Commission.

(2) All fees collected shall be forwarded to the board for deposit into the Public Defender User Fee Fund.

(3)(A) The commission shall deposit the money collected into the existing account within the State Central Services Fund entitled "Public Defender User Fees".

(B)(i) Three dollars ($3.00) of each fee collected under this section shall be remitted to each county in the state to defray the operating expenses of each county's public defender office.

(ii) The commission shall remit quarterly to each county treasurer the county's portion of the fee collected under this section using the formula for the County Aid Fund under § 19-5-602.

(4) The fees collected by the bail bond companies required under this subsection shall be reported and filed with the commission quarterly.

(5) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed by each bail bond company by February 15 on forms provided by the board.

(6) In addition to the bail or appearance bond premium or compensation allowed under this section and § 17-19-111, each licensed professional bail bond company, sheriff, or keeper of the jail shall charge and collect a processing fee of five dollars ($5.00) on each bail bond in order to defray the surety's costs incurred by the quarterly and annual reports to the commission and to further defray the surety's costs incurred in the collection of all fees on behalf of the commission.

(7) The board may pursue any appropriate legal remedy for the collection of any delinquent fees owed under this subsection.

(8) Upon collection of any fees and penalties, the board shall forward all fees and penalties to the commission for deposit into the Public Defender User Fees Fund account within the State Central Services Fund.

(f)(1) In addition to the premiums, compensation, and fees allowed under this chapter, each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 shall charge and collect as a nonrefundable administrative bail bond fee for the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund an additional fee of six dollars ($6.00) per bail bond for giving bond for every bail bond issued by the professional bail bond company by or through its individual licensees, sheriffs, keepers of the jail, or any persons authorized to take bail under § 16-84-102.

(2) The fees and penalties collected under this subsection by a professional bail bond company, sheriff, keeper of the jail, or a person authorized to take bail under § 16-84-102 shall be forwarded to the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board for deposit into the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund.

(3) The board shall deposit the money collected into the existing account within the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund to be used for the establishment and operation of alcohol abuse programs, drug abuse programs, crime prevention programs, and other related purposes in the counties.

(4) The fees required under this subsection and collected by the bail bond companies, sheriffs, keepers of the jail, or persons authorized to take bail under § 16-84-102 shall be reported quarterly and filed with the board.

(5)(A) Within fifteen (15) days after receiving the quarterly fees from the bail bond companies, sheriffs, keepers of the jail, or persons authorized to take bail under § 16-84-102, the board shall remit the fees collected under this subsection to the Arkansas Sheriffs' Association.

(B) The Arkansas Sheriffs' Association is the official organization of sheriffs in this state and is organized and exists under the Arkansas Nonprofit Corporation Act, §§ 4-28-201 -- 4-28-206 and §§ 4-28-209 -- 4-28-224.

(6) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed on forms provided by the board by each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 by February 15.

(7) The Department of Finance and Administration may pursue any appropriate legal remedy for the collection of delinquent fees and penalties owed under this subsection against an entity that has a duty to collect the fee under this subsection.

(8) The board shall promulgate rules to suspend, revoke, or take disciplinary action for noncompliance in failure to remit or pay fees under this section or in failure to report under this section.

(g)(1)(A) In addition to the premiums and fees allowed under this chapter, each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 shall charge and collect an additional fee of four dollars ($4.00) per bail bond for every bail bond issued by the professional bail bond company by or through its individual licensees, sheriffs, keepers of the jail, or any persons authorized to take bail under § 16-84-102.

(B) The administrative bail bond fee is nonrefundable and shall be deposited into the Bail Bond Recovery Fund.

(2) The fees and penalties collected under this subsection by the professional bail bond company, sheriff, keeper of the jail, or a person authorized to take bail under § 16-84-102 shall be forwarded to the board for deposit into the Bail Bond Recovery Fund.

(3)(A) The board shall deposit the money collected into the existing account within the Bail Bond Recovery Fund.

(B) Use of the funds from the Bail Bond Recovery Fund shall be for professional bail bond forfeitures.

(4) The fees collected by the bail bond company, sheriff, keeper of the jail, or a person authorized to take bail under § 16-84-102 required under this subsection shall be reported quarterly and filed with the board.

(5) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed on forms provided by the board by each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 by February 15.

(6) The board may pursue any appropriate legal remedy for the collection of delinquent fees and penalties owed under this subsection against an entity that has a duty under this subsection to collect the fee.

(7) The board shall promulgate rules to suspend, revoke, or take disciplinary action for noncompliance in failure to remit or pay fees under this section or for failure to report under this section.

(h) A sheriff, keeper of the jail, and any bail bond company shall collect fees as required under §§ 14-52-111, 17-19-111, 17-19-301, and 21-6-307 and other fees as required by law.

19-5-1088. Bail Bondsman Board Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Bail Bondsman Board Fund".

(b) This fund shall consist of those moneys collected under §§ 17-19-111 and 17-19-301 and other moneys from the collection of fees, there to be used exclusively for the operation of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

Arkansas Video Service Fund

19-6-819. Arkansas Video Service Fund.

(a) There is created on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Video Service Fund".

(b)(1) All moneys collected under § 23-19-204 shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund shall also consist of any other revenues as may be authorized by law.

(c) The fund shall be used by the Secretary of State to review and issue certificates of franchise authority.

Court Appointed Special Advocates Fund

19-6-820. Arkansas Court Appointed Special Advocates Program Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Court Appointed Special Advocates Program Fund".

(b) The fund shall consist of such revenues as may be authorized by law.

(c) The fund shall be used for providing program support for local offices of the Arkansas Court Appointed Special Advocates program

Noncriminal Fingerprinting Fee

14-1-102. Noncriminal fingerprinting – Fee.

A local law enforcement agency may charge a reasonable fee for noncriminal fingerprinting services to offset the cost of expenses associated with offering a noncriminal fingerprinting service.

Law Enforcement Training Fund

19-6-840—Law enforcement training fund

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Law Enforcement Training Fund”.

(b) The fund shall consist of such revenues as may be collected under § 12-41-505 or as otherwise authorized by law.
(c) The fund shall be used by the Arkansas Commission on Law Enforcement Standards and Training to establish and conduct training for law enforcement officers, personnel, jailers, 911 operators, or other persons determined by the commission to qualify for the training.

Law Enforcement Family Relief Provisions

19-5-1155—Law Enforcement Family Relief Trust Fund

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the "Law Enforcement Family Relief Trust Fund".
(b) The fund shall consist of:
(1) All moneys generated from the Law Enforcement Family Relief Check-off Program under § 26-51-2511;
(2) Any gifts, grants, bequests, devises, and donations received under the program under § 26-51-2511; and
(3) Any other revenues as may be authorized by law.
(c) The fund shall be used exclusively by the Secretary of the Department of Public Safety as stated in § 26-51-2511.
(d) All moneys deposited into the fund, all interest earned on deposits, and the fund balance in the fund may be disbursed as appropriated in each fiscal year of the biennium for the program.

26-51-2511—Law Enforcement Family Relief Check-Off Program

(a)(1) There is created the Law Enforcement Family Relief Check-off Program.
(2) It is the purpose of this section to provide a means by which an individual taxpayer may designate a portion or all of his or her income tax refund to be withheld and contributed for the purposes stated in this section.
(b) The Secretary of the Department of Finance and Administration shall:
(1) Include on the Arkansas individual income tax forms, including those forms on which a husband and wife file separately on the same form and on all corporate income tax forms, a designation as follows:
"(A) If you are entitled to a refund, check if you wish to designate [ ] $1, [ ] $5, [ ] $10, [ ] $20, [ ] $_____ (write in amount), or [ ] all refund due of your tax refund for the Law Enforcement Family Relief Check-off Program. Your refund will be reduced by this amount.
(B) If you owe an additional amount, check if you wish to contribute an additional [ ] $1, [ ] $5, [ ] $10, [ ] $20, [ ] $_____ (write in amount) for the Law Enforcement Family Relief Check-off Program. If you wish to make a contribution to the program, you must enclose a separate check for the amount of your contribution, payable to the Law Enforcement Family Relief Check-off Program.";
(2) Certify quarterly to the Treasurer of State the amount contributed to the Law Enforcement Family Relief Check-off Program through this state income tax check-off during the quarter as authorized by this section; and
(3) Promulgate all rules and all income tax forms, returns, and schedules necessary to carry out the Law Enforcement Family Relief Check-off Program under this section.
(c) Upon receiving the quarterly certification under subdivision (b)(2) of this section, the Treasurer of State shall:
(1) Deduct from the:
(A) Individual Income Tax Withholding Fund the amount certified by the Secretary of the Department of Finance and Administration as contributed to the Law Enforcement Family Relief Check-off Program on individual income tax forms; and
(B) Corporate Income Tax Withholding Fund the amount certified by the Secretary of the Department of Finance and Administration as contributed to the Law Enforcement Family Relief Check-off Program on corporate income tax forms; and
(2) Credit the amount certified each quarter under subdivision (b)(2) of this section to the Law Enforcement Family Relief Trust Fund.
(d)(1) The Secretary of the Department of Public Safety or his or her designee shall use the funds in the Law Enforcement Family Relief Trust Fund to provide financial assistance to the family of an Arkansas-certified law enforcement officer who is:
(A) Killed in the line of duty; or
(B) Diagnosed by a medical professional with a terminal illness.
(2) The eligibility criteria for receiving grants under the grant Law Enforcement Family Relief Check-off Program shall include without limitation:
(A) The need of the family;
(B) The salary of the Arkansas-certified law enforcement officer; and
(C) Any other factors that establish the family's financial hardship.
(3) The Secretary of the Department of Public Safety may:
(A) Accept any gifts, grants, bequests, devises, and donations made to the State of Arkansas for the purpose of funding the Law Enforcement Family Relief Check-off Program; and
(B) Deposit any gifts, grants, bequests, devises, and donations received under this section into the Law Enforcement Family Relief Check-off Program.
(4) The Secretary of the Department of Public Safety shall promulgate all rules necessary to implement the grant program created under this section.

Public Safety Equipment Grant Program

12-1-103. Public Safety Equipment Grant Program

(a)(1) There is created within the Department of Public Safety the Public Safety Equipment Grant Program to be administered by the Secretary of the Department of Public Safety.
(2) The secretary may hire personnel necessary to carry out the duties of administering the program.
(3)(A) The secretary shall establish a grant review committee to evaluate applications and to advise on the awarding of grants under the program.
(B) The grant review committee shall consist of law enforcement officers and other interested persons as determined by the secretary.
(b)(1) In consultation with the grant review committee, the secretary shall award grants under the program to law enforcement agencies, detention centers, and corrections agencies for equipment that aids in improving trust and relationships between law enforcement agencies, detention centers, and corrections agencies and the communities that they serve.
(2) Grants may be made for equipment, training, or accreditation including without limitation:
(A) Body cameras with auto-activation capabilities;
(B) In-car cameras with auto-activation capabilities;
(C) Cloud-based storage services;
(D) On-premises server hardware and storage to accommodate on-premises installations;
(E) Conducted electrical devices and related training programs;
(F) Virtual reality training;
(G) Agency accreditation programs;
(H) Bulletproof vests;
(I) Pepper spray;
(J) Rubber bullets; and
(K) Other equipment as deemed necessary by the secretary.
(3) As a condition for receiving a grant under this section, the secretary may require a law enforcement agency, detention center, or corrections agency to provide matching funds at a percentage to be determined by the secretary.
(4) As a part of the grant application process and in consultation with the grant review committee, the secretary may:
(A) Design procedures and criteria for awarding grants under this section;
(B) Receive and review applications for grants under this section;
(C) Prescribe the form, nature, and extent of the information that shall be contained in an application for a grant under this section;
(D) Audit and inspect the records of grant recipients; and
(E) Require reports from grant recipients.
(c) On or before October 1 of each year, the secretary shall submit a report to the Governor and the cochairs of the Legislative Council providing an account of the activities and expenditures of the program during the preceding calendar year.

Civil Asset Forfeiture

5-64-505. Property Subject to Forfeiture

Arkansas Civil Asset Forfeiture Reform Act of 2021

(a) ITEMS SUBJECT TO FORFEITURE. The following are subject to forfeiture upon the initiation of a civil proceeding filed by the prosecuting attorney and when so ordered by the circuit court in accordance with this section, however no property is subject to forfeiture based solely upon a misdemeanor possession of a Schedule III, Schedule IV, Schedule V, or Schedule VI controlled substance:
(1) Any controlled substance or counterfeit substance that has been manufactured, distributed, dispensed, or acquired in violation of this chapter;
(2) Any raw material, product, or equipment of any kind that is used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance or counterfeit substance in violation of this chapter;
(3) Any property that is used, or intended for use, as a container for property described in subdivision (a)(1) or subdivision (a)(2) of this section;
(4) Any conveyance, including an aircraft, vehicle, or vessel that is used or intended for use to transport or in any manner to facilitate the transportation for the purpose of sale or receipt of property described in subdivision (a)(1) or subdivision (a)(2) of this section, however:
(A) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;
(B)(i) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner of the conveyance to have been committed or omitted without his or her knowledge or consent.
(ii) Upon a showing described in subdivision (a)(4)(B)(i) of this section by the owner or interest holder, the conveyance may nevertheless be forfeited if the prosecuting attorney establishes that the owner or interest holder either knew or should

reasonably have known that the conveyance would be used to transport or in any manner to facilitate the transportation for the purpose of sale or receipt of property described in subdivision (a)(1) or subdivision (a)(2) of this section;
(C) A conveyance is not subject to forfeiture for a violation of §§ 5-64-419 and 5-64-441; and
(D) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission;
(5) Any book, record, or research product or material, including a formula, microfilm, tape, or data that is used, or intended for use, in violation of this chapter;
(6)(A) Anything of value, including firearms, furnished or intended to be furnished in exchange for a controlled substance or counterfeit substance in violation of this chapter, any proceeds or profits traceable to the exchange, and any money, negotiable instrument, or security used, or intended to be used, to facilitate any violation of this chapter.
(B) However, no property shall be forfeited under this subdivision (a)(6) to the extent of the interest of an owner by reason of any act or omission established by him or her, by a preponderance of the evidence, to have been committed or omitted without his or her knowledge or consent;
(7) REBUTTABLE PRESUMPTIONS.
(A) Any money, coin, currency, or firearms found in close proximity to a forfeitable controlled substance, a counterfeit substance, forfeitable drug manufacturing or distributing paraphernalia, or a forfeitable record of an importation, manufacture, or distribution of a controlled substance or counterfeit substance is presumed to be forfeitable under this subdivision (a)(7).
(B) The burden of proof is upon a claimant of the property to rebut this presumption by a preponderance of the evidence; and
(8) Real property may be forfeited under this chapter if it substantially assisted in, facilitated in any manner, or was used or intended for use in the commission of any act prohibited by this chapter, however:
(A) No real property is subject to forfeiture under this chapter by reason of any act or omission established by the owner of the real property by a preponderance of the evidence to have been committed or omitted without his or her knowledge or consent;
(B) Real property is not subject to forfeiture for a violation of § 5-64-419, if the offense is a Class C felony or less, or § 5-64-441;
(C) A forfeiture of real property encumbered by a mortgage or other lien is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the unlawful act or omission;
(D) Upon conviction, when the circuit court having jurisdiction over the real property seized finds upon a hearing by a preponderance of the evidence that grounds for a forfeiture exist under this section, the court shall enter an order consistent with subsection (h) of this section;
(E) When any court orders a forfeiture of real property under this chapter, the order shall be filed of record on the day issued and shall have prospective effect only;
(F) A forfeiture of real property ordered under a provision of this chapter does not affect the title of a bona fide purchaser who purchased the real property prior to the issuance of the order, and the order has no force or effect on the title of the bona fide purchaser; and
(G) Any lis pendens filed in connection with any action pending under a provision of this chapter that might result in the forfeiture of real property is operative only from the time filed and has no retroactive effect.
(b) SEIZURE AND SUMMARY FORFEITURE OF CONTRABAND. The following items are deemed contraband and may be seized and summarily forfeited to the state:
(1) A controlled substance listed in Schedule I that is possessed, transferred, sold, or offered for sale in violation of this chapter and a controlled substance listed in Schedule I that is seized or comes into the possession of the state and the owner of the controlled substance is unknown;
(2)(A) A species of a plant from which a controlled substance in Schedule I, Schedule II, or Schedule VI may be derived and:
(i) The plant has been planted or cultivated in violation of this chapter;
(ii) The plant's owner or cultivator is unknown; or
(iii) The plant is a wild growth.
(B) Upon demand by a seizing law enforcement agency, the failure of a person in occupancy or in control of land or premises where the species of plant is growing or being stored, to produce an appropriate registration or proof that he or she is the holder of an appropriate registration, constitutes authority for the seizure and forfeiture of the plant; and
(3) Any drug paraphernalia or counterfeit substance except in the possession or control of a practitioner in the course of professional practice or research.
(c) SEIZURE OF PROPERTY. Property subject to forfeiture under this chapter may be seized by any law enforcement agent upon process issued by any circuit court having jurisdiction over the property on petition filed by the prosecuting attorney of the judicial circuit. Seizure without process may be made if:
(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;
(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;
(3) The seizing law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or
(4) The seizing law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of this chapter.
(d) TRANSFER OF PROPERTY SEIZED BY STATE OR LOCAL AGENCY TO FEDERAL AGENCY.

(1) No state or local law enforcement agency may transfer any property seized by the state or local agency to any federal entity for forfeiture under federal law unless the circuit court having jurisdiction over the property enters an order, upon petition by the prosecuting attorney, authorizing the property to be transferred to the federal entity.
(2) The transfer shall not be approved unless it reasonably appears that the activity giving rise to the investigation or seizure involves more than one (1) state or the nature of the investigation or seizure would be better pursued under federal law.
(e) CUSTODY OF PROPERTY PENDING DISPOSITION.
(1) Property seized for forfeiture under this section is not subject to replevin, but is deemed to be in the custody of the seizing law enforcement agency subject only to an order or decree of the circuit court having jurisdiction over the property seized.
(2) Subject to any need to retain the property as evidence, when property is seized under this chapter the seizing law enforcement agency may:
(A) Remove the property to a place designated by the circuit court;
(B) Place the property under constructive seizure posting notice of pending forfeiture on it, by giving notice of pending forfeiture to its owners and interest holders, or by filing notice of pending forfeiture in any appropriate public record relating to the property;
(C) Remove the property to a storage area for safekeeping or, if the property is a negotiable instrument or money, or is not needed for evidentiary purposes, deposit it in an interest-bearing account; or
(D) Provide for another agency or custodian, including an owner, secured party, mortgagee, or lienholder, to take custody of the property and service, maintain, and operate it as reasonably necessary to maintain its value in any appropriate location within the jurisdiction of the court.
(3)(A) In any case of transfer of property, a transfer receipt shall be prepared by the transferring agency.
(B) The transfer receipt shall:
(i) List a detailed and complete description of the property being transferred;
(ii) State to whom the property is being transferred and the source or authorization for the transfer; and
(iii) Be signed by both the transferor and the transferee.
(C) Both transferor and transferee shall maintain a copy of the transfer receipt.
(4) A person who acts as custodian of property under this section is not liable to any person on account of an act done in a reasonable manner in compliance with an order under this chapter.
(f) INVENTORY OF PROPERTY SEIZED -- REFERRAL TO PROSECUTING ATTORNEY.
(1) Any property seized by a state or local law enforcement officer who is detached to, deputized or commissioned by, or working in conjunction with a federal agency remains subject to the provisions of this section.
(2)(A) When property is seized for forfeiture by a law enforcement agency, the seizing law enforcement officer shall prepare and sign a confiscation report.
(B)(i) The party from whom the property is seized shall also sign the confiscation report if present and shall immediately receive a copy of the confiscation report.
(ii) If the party refuses to sign the confiscation report, the confiscation report shall be signed by one (1) additional law enforcement officer, stating that the party refused to sign the confiscation report.
(C) The original confiscation report shall be:
(i) Filed with the seizing law enforcement agency within forty-eight (48) hours after the seizure; and
(ii) Maintained in a separate file.
(D) One (1) copy of the confiscation report shall be retained by the seizing law enforcement officer.
(3) The confiscation report shall contain the following information:
(A) A detailed description of the property seized including any serial or model numbers and odometer or hour reading of vehicles or equipment;
(B) The date of seizure;
(C) The name and address from whom the property was seized;
(D) The reason for the seizure;
(E) Where the property will be held;
(F) The seizing law enforcement officer's name; and
(G) A signed statement by the seizing law enforcement officer stating that the confiscation report is true and complete.
(4) Within three (3) business days of receiving the confiscation report, the seizing law enforcement agency shall forward a copy of the confiscation report to the prosecuting attorney for the district where the property was seized and to the Arkansas Drug Director.
(5)(A) Arkansas Legislative Audit shall notify the Arkansas Alcohol and Drug Abuse Coordinating Council and a circuit court in the county of a law enforcement agency, prosecuting attorney, or other public entity that the law enforcement agency, prosecuting attorney, or public entity is ineligible to receive any forfeited funds, forfeited property, or any grants from the council, if Arkansas Legislative Audit determines, by its own investigation or upon written notice from the Arkansas Drug Director, that:
(i) The law enforcement agency has failed to complete and file the confiscation reports as required by this section;
(ii) The law enforcement agency, prosecuting attorney, or public entity has not properly accounted for any seized property; or
(iii) The prosecuting attorney has failed to comply with the notification requirement set forth in subdivision (i)(1) of this section.
(B) After the notice, the circuit court shall not issue any order distributing seized property to that law enforcement agency, prosecuting attorney, or public entity nor shall any grant be awarded by the council to that law enforcement agency, prosecuting attorney, or public entity until:

(i) The appropriate officials of the law enforcement agency, prosecuting attorney, or public entity have appeared before the Legislative Joint Auditing Committee; and
(ii) The Legislative Joint Auditing Committee has adopted a motion authorizing subsequent transfers of forfeited property to the law enforcement agency, prosecuting attorney, or public entity.
(C)(i) While a law enforcement agency, prosecuting attorney, or other public entity is ineligible to receive forfeited property, the circuit court shall order any money that would have been distributed to that law enforcement agency, prosecuting attorney, or public entity to be transmitted to the Treasurer of State for deposit into the Crime Lab Equipment Fund.
(ii) If the property is other than cash, the circuit court shall order the property converted to cash pursuant to subdivision (h)(1)(B) of this section and the proceeds transmitted to the Treasurer of State for deposit into the Crime Lab Equipment Fund.
(D) Moneys deposited into the Crime Lab Equipment Fund pursuant to subdivision (f)(5)(C) of this section are not subject to recovery or retrieval by the ineligible law enforcement agency, prosecuting attorney, or other public entity.
(6) The Arkansas Drug Director shall establish through rules a standardized confiscation report form to be used by all law enforcement agencies with specific instructions and guidelines concerning the nature and dollar value of all property, including firearms, to be included in the confiscation report and forwarded to the office of the local prosecuting attorney and the Arkansas Drug Director under this subsection.
(g) Initiation of Forfeiture Proceedings -- Notice to Claimants -- Judicial Proceedings.
(1)(A) The prosecuting attorney shall initiate forfeiture proceedings by filing a complaint with the circuit clerk of the county where the property was seized and by serving the complaint on all known owners and interest holders of the seized property in accordance with the Arkansas Rules of Civil Procedure.
(B) The complaint may be based on in rem or in personam jurisdiction but shall not be filed in such a way as to avoid the distribution requirements set forth in subdivision (i)(1) of this section.
(C) The prosecuting attorney shall mail a copy of the complaint to the Arkansas Drug Director within five (5) calendar days after filing the complaint.
(2)(A) The complaint shall include a copy of the confiscation report and shall be filed within sixty (60) days after receiving a copy of the confiscation report from the seizing law enforcement agency.
(B) In a case involving real property, the complaint shall be filed within sixty (60) days of the defendant's conviction on the charge giving rise to the forfeiture.
(3)(A) The prosecuting attorney may file the complaint after the expiration of the time set forth in subdivision (g)(2) of this section only if the complaint is accompanied by a statement of good cause for the late filing.
(B) However, in no event shall the complaint be filed more than one hundred twenty (120) days after either the date of the seizure or, in a case involving real property, the date of the defendant's conviction.
(C) If the circuit court determines that good cause has not been established, the circuit court shall order that the seized property be returned to the owner or interest holder. In addition, items seized but not subject to forfeiture under this section or subject to disposition pursuant to law or the Arkansas Rules of Criminal Procedure may be ordered returned to the owner or interest holder. If the owner or interest holder cannot be determined, the court may order disposition of the property in accordance with subsection (h) of this section.
(4)(A) Subject to the Arkansas Rules of Civil Procedure, with regard to a person arrested for an offense giving rise to a forfeiture action, the owner or interest holder of the seized property shall file with the circuit clerk an answer to the complaint that shall include:
(i) A statement describing the seized property and the owner's or interest holder's interest in the seized property, with supporting documents to establish the owner's or interest holder's interest;
(ii) A certification by the owner or interest holder stating that he or she has read the answer and that it is not filed for any improper purpose;
(iii) A statement setting forth any defense to forfeiture; and
(iv) The address at which the owner or interest holder accepts mail.
(B) With regard to a third party not arrested for an offense giving rise to a forfeiture action, within forty-five (45) days of service of process the owner or interest holder of the seized property shall file with the circuit clerk an answer to the complaint.
(5)(A) If the owner or interest holder fails to file an answer as required by subdivision (g)(4) of this section, the prosecuting attorney may move for default judgment pursuant to the Arkansas Rules of Civil Procedure.
(B)(i) If a timely answer has been filed, the prosecuting attorney has the following burden of proof:
(a) With regard to a person arrested for an offense giving rise to the forfeiture action, the prosecuting attorney shall prove by a preponderance of the evidence that the seized property should be forfeited; or
(b) With regard to a third party not arrested for an offense giving rise to the forfeiture action, the prosecuting attorney shall prove by clear and convincing evidence that the seized property should be forfeited.
(ii) After the prosecuting attorney has presented proof under subdivision (g)(5)(B)(i) of this section, any owner or interest holder of the property seized is allowed to present evidence why the seized property should not be forfeited.
(iii)(a) If the circuit court determines that grounds for forfeiting the seized property exist and that no defense to forfeiture has been established by the owner or interest holder, the circuit court shall enter an order pursuant to subsection (h) of this section.
(b) However, if the circuit court determines either that the prosecuting attorney has failed to establish that grounds for forfeiting the seized property exist or that the owner or interest holder has established a defense to forfeiture, the court shall order that the seized property be immediately returned to the owner or interest holder.
(h) FINAL DISPOSITION.

(1) When the circuit court having jurisdiction over the seized property finds upon a hearing by a preponderance of the evidence that grounds for a forfeiture exist under this chapter, the circuit court shall enter an order:
(A) To permit the law enforcement agency or prosecuting attorney to retain the seized property for law enforcement or prosecutorial purposes, subject to the following provisions:
(i)(a) Seized property may not be retained for official use for more than two (2) years, unless the circuit court finds that the seized property has been used for law enforcement or prosecutorial purposes and authorizes continued use for those purposes on an annual basis.
(b) At the end of the retention period, the seized property shall be sold as provided in subdivision (h)(1)(B) of this section and:
(1) Eighty percent (80%) of the proceeds shall be deposited into the drug control fund of the retaining law enforcement agency or prosecuting attorney; and
(2) Twenty percent (20%) of the proceeds shall be deposited into the State Treasury as special revenues to be credited to the Crime Lab Equipment Fund.
(c)(1) Nothing prohibits the retaining law enforcement agency or prosecuting attorney from selling the retained seized property at any time during the time allowed for retention.
(2) However, the proceeds of the sale shall be distributed as set forth in subdivision (h)(1)(A)(i)(b) of this section;
(ii) If the circuit court determines that retained seized property has been used for personal use or by non-law enforcement personnel for non-law enforcement purposes, the circuit court shall order the seized property to be sold pursuant to the provisions of § 5-5-101(e) and (f), and the proceeds shall be deposited into the State Treasury as special revenues to be credited to the Crime Lab Equipment Fund;
(iii)(a) A drug task force may use forfeited property or money if the circuit court's order specifies that the forfeited property or money is forfeited to the prosecuting attorney, county sheriff, chief of police, Division of Arkansas State Police, or Arkansas Highway Police Division of the Arkansas Department of Transportation.
(b) After the order, the prosecuting attorney, county sheriff, chief of police, Division of Arkansas State Police, or Arkansas Highway Police Division of the Arkansas Department of Transportation shall:
(1) Maintain an inventory of the forfeited property or money;
(2) Be accountable for the forfeited property or money; and
(3) Be subject to the provisions of subdivision (f)(5) of this section with respect to the forfeited property or money;
(iv)(a) Any aircraft is forfeited to the office of the Arkansas Drug Director and may only be used for drug eradication or drug interdiction efforts, within the discretion of the Arkansas Drug Director.
(b) However, if the Arkansas Alcohol and Drug Abuse Coordinating Council determines that the aircraft should be sold, the sale shall be conducted pursuant to the provisions of § 5-5-101(e) and (f), and the proceeds of the sale shall be deposited into the Special State Assets Forfeiture Fund;
(v) Any firearm not retained for official use shall be disposed of in accordance with state and federal law; and
(vi) Any controlled substance, plant, drug paraphernalia, or counterfeit substance shall be destroyed pursuant to a court order;
(B)(i) To sell seized property that is not required by law to be destroyed and that is not harmful to the public.
(ii) Seized property described in subdivision (h)(1)(B)(i) of this section shall be sold at a public sale by the retaining law enforcement agency or prosecuting attorney pursuant to the provisions of § 5-5-101(e) and (f); or
(C) To transfer a motor vehicle to a school district for use in a driver education course.
(2) Disposition of forfeited property pursuant to this subsection is subject to the need to retain the forfeited property as evidence in any related proceeding.
(3) Within three (3) business days of the entry of the order, the circuit clerk shall forward to the Arkansas Drug Director copies of the confiscation report, the circuit court's order, and any other documentation detailing the disposition of the seized property.
(i) DISPOSITION OF MONEYS RECEIVED. Subject to the provisions of subdivision (f)(5) of this section, the proceeds of sales conducted pursuant to subdivision (h)(1)(B) of this section and any moneys forfeited or obtained by judgment or settlement pursuant to this chapter shall be deposited and distributed in the manner set forth in this subsection. Moneys received from a federal forfeiture shall be deposited and distributed pursuant to subdivision (i)(4) of this section.
(1) ASSET FORFEITURE FUND.
(A) The proceeds of any sale and any moneys forfeited or obtained by judgment or settlement under this chapter shall be deposited into the asset forfeiture fund of the prosecuting attorney and is subject to the following provisions:
(i) If, during a calendar year, the aggregate amount of moneys deposited into the asset forfeiture fund exceeds twenty thousand dollars ($20,000) per county, the prosecuting attorney shall, within fourteen (14) days of that time, notify the circuit judges in the judicial district and the Arkansas Drug Director;
(ii) Subsequent to the notification set forth in subdivision (i)(1)(A)(i) of this section, twenty percent (20%) of the proceeds of any additional sale and any additional moneys forfeited or obtained by judgment or settlement under this chapter in the same calendar year shall be deposited into the State Treasury as special revenues to be credited to the Crime Lab Equipment Fund, and the remainder shall be deposited into the asset forfeiture fund of the prosecuting attorney;
(iii) Failure by the prosecuting attorney to comply with the notification requirement set forth in subdivision (i)(1)(A)(i) of this section renders the prosecuting attorney and any entity eligible to receive forfeited moneys or property from the prosecuting attorney ineligible to receive forfeited moneys or property, except as provided in subdivision (f)(5)(A) of this section; and
(iv) Twenty percent (20%) of any moneys in excess of twenty thousand dollars ($20,000) that have been retained but not reported as required by subdivision (i)(1)(A)(i) of this section are subject to recovery for deposit into the Crime Lab Equipment Fund.

(B) The prosecuting attorney shall administer expenditures from the asset forfeiture fund which is subject to audit by Arkansas Legislative Audit. Moneys distributed from the asset forfeiture fund shall only be used for law enforcement and prosecutorial purposes. Moneys in the asset forfeiture fund shall be distributed in the following order:
(i) For satisfaction of any bona fide security interest or lien;
(ii) For payment of any proper expense of the proceeding for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs;
(iii) Any balance under two hundred fifty thousand dollars ($250,000) shall be distributed proportionally so as to reflect generally the contribution of the appropriate local or state law enforcement or prosecutorial agency's participation in any activity that led to the seizure or forfeiture of the property or deposit of moneys under this chapter; and
(iv) Any balance over two hundred fifty thousand dollars ($250,000) shall be forwarded to the Arkansas Drug Director to be transferred to the State Treasury for deposit into the Special State Assets Forfeiture Fund for distribution as provided in subdivision (i)(3) of this section.
(C)(i) For a forfeiture in an amount greater than two hundred fifty thousand dollars ($250,000) from which expenses are paid for a proceeding for forfeiture and sale under subdivision (i)(1)(B)(ii) of this section, an itemized accounting of the expenses shall be delivered to the Arkansas Drug Director within ten (10) calendar days after the distribution of the funds.
(ii) The itemized accounting shall include the expenses paid, to whom paid, and for what purposes the expenses were paid.
(2) DRUG CONTROL FUND.
(A)(i) There is created on the books of law enforcement agencies and prosecuting attorneys a drug control fund.
(ii) The drug control fund shall consist of any moneys obtained under subdivision (i)(1) of this section and any other revenue as may be provided by law or ordinance.
(iii) Moneys from the drug control fund may not supplant other local, state, or federal funds.
(iv) Moneys in the drug control fund are appropriated on a continuing basis and are not subject to the Revenue Stabilization Law, § 19-5-101 et seq.
(v) Moneys in the drug control fund shall only be used for law enforcement and prosecutorial purposes, including without limitation to provide a grant of up to one thousand dollars ($1,000) to the family of a law enforcement officer who dies in the prosecuting attorney's jurisdiction.
(vi) The drug control fund is subject to audit by Arkansas Legislative Audit.
(B) The law enforcement agencies and prosecuting attorneys shall submit to the Arkansas Drug Director on or before January 1 and July 1 of each year a report detailing any moneys received and expenditure made from the drug control fund during the preceding six-month period.
(3) SPECIAL STATE ASSETS FORFEITURE FUND.
(A) There is created and established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “Special State Assets Forfeiture Fund”.
(B)(i) The Special State Assets Forfeiture Fund shall consist of revenues obtained under subdivision (i)(1)(B)(iv) of this section and any other revenue as may be provided by law.
(ii) Moneys from the Special State Assets Forfeiture Fund may not supplant other local, state, or federal funds.
(C) The Special State Assets Forfeiture Fund is not subject to the provisions of the Revenue Stabilization Law, § 19-5-101 et seq., or the Special Revenue Fund Account of the State Apportionment Fund, § 19-5-203(b)(2)(A).
(D)(i) The Arkansas Drug Director shall establish through rules a procedure for proper investment, use, and disposition of state moneys deposited into the Special State Assets Forfeiture Fund in accordance with the intent and purposes of this chapter.
(ii) State moneys in the Special State Assets Forfeiture Fund shall be distributed by the Arkansas Alcohol and Drug Abuse Coordinating Council and shall be distributed for drug interdiction, eradication, education, rehabilitation, the State Crime Laboratory, and drug courts.
(4) FEDERAL FORFEITURES.
(A)(i)(a) Any moneys received by a prosecuting attorney or law enforcement agency from a federal forfeiture shall be deposited and maintained in a separate account.
(b) However, any balance over two hundred fifty thousand dollars ($250,000) shall be distributed as set forth in subdivision (i)(4)(B) of this section.
(ii) No other moneys may be maintained in the account except for any interest income generated by the account.
(iii) Moneys in the account shall only be used for law enforcement and prosecutorial purposes consistent with governing federal law.
(iv) The account is subject to audit by Arkansas Legislative Audit.
(B)(i) Any balance over two hundred fifty thousand dollars ($250,000) shall be forwarded to the Division of Arkansas State Police to be transferred to the State Treasury for deposit into the Special State Assets Forfeiture Fund in which it shall be maintained separately and distributed consistent with governing federal law and upon the advice of the Arkansas Alcohol and Drug Abuse Coordinating Council.
(ii) Of the moneys contained in the Special State Assets Forfeiture Fund at the beginning of each fiscal year, no more than:
(a) Twenty-five percent (25%) shall be retained by the Division of Arkansas State Police to be used for law enforcement purposes consistent with governing federal law; and
(b) Sixty-five percent (65%) may be distributed among other state and local law enforcement agencies to be used for law enforcement purposes consistent with federal law.

(iii) With the advice of the Arkansas Alcohol and Drug Abuse Coordinating Council, the Division of Arkansas State Police shall promulgate rules and procedures for the distribution by an allocation formula of moneys set forth in subdivision (i)(4)(B)(ii)(b) of this section.
(j) IN PERSONAM PROCEEDINGS. In personam jurisdiction may be based on a person's presence in the state, or on his or her conduct in the state, as set out in § 16-4-101(C), and is subject to the following additional provisions:
(1) A temporary restraining order under this section may be entered ex parte on application of the state, upon a showing that:
(A) There is probable cause to believe that the property with respect to which the order is sought is subject to forfeiture under this section; and
(B) Notice of the action would jeopardize the availability of the property for forfeiture;
(2)(A) Notice of the entry of a temporary restraining order and an opportunity for hearing shall be afforded to a person known to have an interest in the property.
(B) The hearing shall be held at the earliest possible date consistent with Rule 65 of the Arkansas Rules of Civil Procedure and is limited to the issues of whether:
(i) There is a probability that the state will prevail on the issue of forfeiture and that failure to enter the temporary restraining order will result in the property's being destroyed, conveyed, alienated, encumbered, disposed of, received, removed from the jurisdiction of the circuit court, concealed, or otherwise made unavailable for forfeiture; and
(ii) The need to preserve the availability of property through the entry of the requested temporary restraining order outweighs the hardship on any owner or interest holder against whom the temporary restraining order is to be entered;
(3) The state has the burden of proof by a preponderance of the evidence to show that the defendant's property is subject to forfeiture;
(4)(A) On a determination of liability of a person for conduct giving rise to forfeiture under this section, the circuit court shall enter a judgment of forfeiture of the property subject to forfeiture as alleged in the complaint and may authorize the prosecuting attorney or any law enforcement officer to seize any property subject to forfeiture pursuant to subsection (a) of this section not previously seized or not then under seizure.
(B) The order of forfeiture shall be consistent with subsection (h) of this section.
(C) In connection with the judgment, on application of the state, the circuit court may enter any appropriate order to protect the interest of the state in property ordered forfeited; and
(5) Subsequent to the finding of liability and order of forfeiture, the following procedures apply:
(A) The attorney for the state shall give notice of pending forfeiture, in the manner provided in Rule 4 of the Arkansas Rules of Civil Procedure, to any owner or interest holder who has not previously been given notice;
(B) An owner of or interest holder in property that has been ordered forfeited and whose claim is not precluded may file a claim within thirty (30) days after initial notice of pending forfeiture or after notice under Rule 4 of the Arkansas Rules of Civil Procedure, whichever is earlier; and
(C) The circuit court may amend the in personam order of forfeiture if the circuit court determines that a claimant has established that he or she has an interest in the property and that the interest is exempt under subdivision (a)(4), subdivision (a)(6), or subdivision (a)(8) of this section.
(k) The circuit court shall order the forfeiture of any other property of a claimant or defendant up to the value of the claimant's or defendant's property found by the circuit court to be subject to forfeiture under subsection (a) of this section if any of the forfeitable property had remained under the control or custody of the claimant or defendant and:
(1) Cannot be located;
(2) Was transferred or conveyed to, sold to, or deposited with a third party;
(3) Is beyond the jurisdiction of the circuit court;
(4) Was substantially diminished in value while not in the actual physical custody of the seizing law enforcement agency;
(5) Was commingled with other property that cannot be divided without difficulty; or
(6) Is subject to any interest exempted from forfeiture under this subchapter.
(l)(1)(A) On the fifth day of each month the Treasurer of State shall transfer to the Department of Community Correction Fund Account twenty percent (20%) of any moneys deposited into the Special State Assets Forfeiture Fund during the previous month.
(B) However, in no event shall more than eight hundred thousand dollars ($800,000) be transferred during any one (1) fiscal year.
(2) Any moneys transferred to the Department of Community Correction Fund Account from the Special State Assets Forfeiture Fund in accordance with this subsection shall:
(A) Be used for the personal services and operating expenses of the drug courts and for no other purpose; and
(B) Not be transferred from the Department of Community Correction Fund Account.
(m)(1) There shall be no civil judgment under this subchapter and no property shall be forfeited unless the person from whom the property is seized is convicted of a felony offense that related to the property being seized and that permits the forfeiture of the property.
(2) The court may waive the conviction requirement under this subsection if the prosecuting attorney shows by clear and convincing evidence that, before a conviction, the person from whom the property was seized:
(A) Died;
(B) Was deported by the United States Government;
(C) Was granted immunity or reduced punishment in exchange for testifying or assisting a law enforcement agency or prosecution;

(D) Fled the jurisdiction or failed to appear on the underlying criminal charge;
(E) Failed to answer the complaint for civil asset forfeiture under this section as specified in the Arkansas Rules of Civil Procedure;
(F) Abandoned or disclaimed interest or ownership in the property seized; or
(G) Agreed in writing with the prosecuting attorney and other parties as to the disposition of the property.

CHAPTER 10
911 Emergency Information

A.C.A. § 12-10-303. Definitions.

"Secondary public safety answering point" means the location at which 911 calls are transferred to from a public safety answering point;

12-10-318. Emergency telephone service charges – Imposition – Liability.

(a)(1)(A) When so authorized by a majority of the persons voting within the political subdivision in accordance with the law, the governing authority of each political subdivision may levy an emergency telephone service charge in the amount assessed by the political subdivision on a per-access-line basis as of January 1, 1997, or the amount up to five percent (5%) of the tariff rate, except that any political subdivision with a population of fewer than twenty-seven thousand five hundred (27,500) according to the 1990 Federal Decennial Census may, by a majority vote of the electors voting on the issue, levy an emergency telephone charge in an amount assessed by the political subdivision on a per-access-line basis as of January 1, 1997, or an amount up to twelve percent (12%) of the tariff rate.

(B) The governing authority of a political subdivision that has been authorized under subdivision (a)(1)(A) of this section to levy an emergency telephone service charge in an amount up to twelve percent (12%) of the tariff rate may decrease the percentage rate to not less than four percent (4%) of the tariff rate for those telephone service users that are served by a telephone company with fewer than two hundred (200) access lines in this state as of the date of the election conducted under subdivision (a)(1)(A) of this section.

(2) Upon its own initiative, the governing authority of the political subdivision may call such a special election to be held in accordance with § 7-11-201 et seq.

(b)(1)(A)(i) There is levied a commercial mobile radio service emergency telephone service charge in an amount of sixty-five cents (65cent(s)) per month per commercial mobile radio service connection that has a place of primary use within the State of Arkansas.

(ii)(a) A commercial mobile radio service provider may determine, bill, collect, and retain an additional amount to reimburse the commercial mobile radio service provider for enabling and providing 911 and enhanced 911 services and capability in the network and for the facilities and associated equipment.

(b) The commercial mobile radio service provider may add any amounts implemented under this subdivision (b)(1)(A)(ii) to the sixty-five cents (65cent(s)) levied in subdivision (b)(1)(A)(i) of this section so that the commercial mobile radio service emergency telephone service charges appear as a single line item on a subscriber's bill.

(B) There is levied a voice over internet protocol emergency telephone service charge in an amount of sixty-five cents (65cent(s)) per month per voice over internet protocol connection that has a place of primary use within the State of Arkansas.

(C) There is levied a nontraditional telephone service charge in an amount of sixty-five cents (65cent(s)) per month per nontraditional service connection that has a place of primary use within the State of Arkansas.

(D) The service charge levied in subdivision (b)(1)(A) of this section and collected by commercial mobile radio service providers that provide mobile telecommunications services as defined by the Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, as in effect on January 1, 2001, shall be collected pursuant to the Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252.

(2)(A) The service charges collected under subdivision (b)(1)(A) of this section, less administrative fees under subdivision (c)(3) of this section, shall be remitted to the Arkansas Emergency Telephone Services Board within sixty (60) days after the end of the month in which the fees are collected.

(B) The funds collected pursuant to subdivision (b)(1)(A) of this section shall not be deemed revenues of the state and shall not be subject to appropriation by the General Assembly.

(c) (1) There is established the Arkansas Emergency Telephone Services Board, consisting of the following:

(A) The Auditor of State or his or her designated representative;

(B) Two (2) representatives selected by a majority of the commercial mobile radio service providers licensed to do business in the state;

(C) Two (2) 911 system employees selected by a majority of the public safety answering point administrators in the state;

(D) The Director of the Arkansas Department of Emergency Management or the director's designee;

(E) One (1) consumer member to be appointed by the President Pro Tempore of the Senate; and

(F) One (1) consumer member to be appointed by the Speaker of the House of Representatives.

(2) The responsibilities of the board shall be as follows:

(A) To establish and maintain an interest-bearing account into which shall be deposited revenues from the service charges levied under subdivision (b)(1)(A) of this section and prepaid wireless E911 charges under § 12-10-326;

(B) To manage and disburse the funds from the interest-bearing account established under subdivision (c)(2)(A) of this section in the following manner:

(i)(a) Not less than eighty-three and five-tenths percent (83.5%) of the total monthly revenues collected and remitted under subdivision (b)(1)(A) of this section and prepaid wireless E911 charges under § 12-10-326 shall be distributed on a population basis to each political subdivision operating a 911 public safety communications center that has the capability of

receiving commercial mobile radio service 911 calls on dedicated 911 trunk lines for expenses incurred for the answering, routing, and proper disposition of 911 calls, including payroll costs, readiness costs, and training costs associated with wireless, voice over internet protocol, and nontraditional 911 calls.

(b) Each state fiscal year, two hundred thousand dollars ($200,000) of the total monthly revenues collected and remitted under subdivision (c)(2)(B)(i)(a) of this section shall be transferred and deposited to the credit of the books of the Treasurer of State and the Auditor of State for the Miscellaneous Agencies Fund Account for the Arkansas Commission on Law Enforcement Standards and Training, to be used exclusively for training and all related costs under § 12-10-325;

(ii)(a) Not more than fifteen percent (15%) of the total monthly revenues collected and remitted under subdivision (b)(1)(A) of this section and prepaid wireless E911 charges under § 12-10-326 shall be held in the interest-bearing account. The board shall report to the Legislative Council in the event the sum held under this subdivision (c)(2)(B)(ii)(a) becomes less than three million five hundred thousand dollars ($3,500,000).

(b) These funds may be utilized by the public safety answering points for the following purposes in connection with compliance with the Federal Communications Commission requirements: upgrading, purchasing, programming, installing, and maintaining necessary data, basic 911 geographic information system mapping, hardware, and software, including any network elements required to supply enhanced 911 phase II cellular, voice over internet protocol, and other nontraditional telephone service.

(c) Invoices must be presented to the board in connection with any request for reimbursement and be approved by a majority vote of the board to receive reimbursement.

(d) Any invoices presented to the board for reimbursements of costs not described by this section may be approved only by a unanimous vote of the board;

(iii) Not more than five-tenths percent (0.5%) of the fees collected under subdivision (b)(1)(A) of this section and prepaid wireless E911 charges under § 12-10-326 may be utilized by the board to compensate the independent auditor and for administrative expenses;

(iv) All interest received on funds in the interest-bearing account shall be disbursed as prescribed in subdivision (c)(2)(B)(i) of this section; and

(v)(a)(1) All cities and counties operating a public safety answering point or a secondary public safety answering point shall submit to the board no later than April 1 of each year:

(A) An explanation and accounting of the funds received and expenditures of those funds for the previous calendar year, along with a copy of the budget for the previous year and a copy of the year-end appropriation and expenditure analysis of any participating or supporting counties, cities, or agencies; and

(B) Any information requested by the board concerning local 911 public safety answering point operations, facilities, equipment, personnel, network, interoperability, call volume, dispatcher training, and supervisor training.

(2) The chief executive for each public safety answering point or secondary public safety answering point shall gather the information necessary for the report under subdivision (c)(2)(B)(v)(a)(1) of this section and provide it to the official responsible for the submission of the report to the board and the county intergovernmental coordination council.

(3) Beginning January 1, 2016, a public safety answering point or a secondary public safety answering point shall submit within its information under subdivision (c)(2)(B)(v)(a)(1) of this section the name of each dispatcher, the dispatcher's date of hire, the dispatcher's date of termination if applicable, and approved courses by the Arkansas Commission on Law Enforcement Standards and Training that were completed by the dispatcher, including without limitation "train the trainer" courses.

(4) Beginning January 1, 2017, the board shall withhold quarterly disbursement from a public safety answering point or a secondary public safety answering point until fifty percent (50%) of the dispatchers for the city or county have completed dispatcher training and dispatcher continuing education approved by the Arkansas Commission on Law Enforcement Standards and Training.

(b) The chief executive for each public safety answering point and secondary public safety answering point shall provide a copy of its certification to the county intergovernmental coordination council for use in conducting the annual review of services under § 14-27-104.

(c) Failure to submit a report under subdivision (c)(2)(B)(v)(a)(1) of this section or a certification under (c)(2)(B)(v)(b) of this section shall result in the withholding of quarterly disbursements by the board until the public safety answering point and secondary public safety answering point have submitted the report or certification.

(d)(1) The board may require any other information necessary under this section.

(2) All cities and counties receiving funds under this section also shall submit to the board no later than April 1 of each year a copy of all documents reflecting the 911 funds received for the previous calendar year, including without limitation wireless, wireline, general revenues, sales taxes, and other sources used by the city or county for 911 services.

(e) Failure to submit the proper accounting information and failure to utilize the funds in a proper manner may result in the suspension or reduction of funding until corrected;

(C)(i) To promulgate rules necessary to perform its duties prescribed by this subchapter.

(ii) In determining the population basis for distribution of funds under subdivision (c)(2)(B)(i) of this section, the board shall determine, based on the latest federal decennial census, the population of all unincorporated areas of counties operating a 911 public safety communications center that has the capacity of receiving commercial mobile radio service, voice over internet protocol service, or nontraditional 911 calls on dedicated 911 trunk lines, and the population of all incorporated areas operating a 911 public safety communications center that has the capability of receiving commercial mobile radio service, voice

over internet protocol service, or nontraditional 911 calls on dedicated 911 trunk lines and compare the population of each of those political subdivisions to the total population;

(D) To submit annual reports to the office of the Auditor of State outlining fees collected and moneys disbursed to public safety answering points from service charges under subdivision (b)(1)(A) of this section and prepaid wireless E911 charges under § 12-10-326; and

(E)(i) To retain an independent third-party auditor for the purposes of receiving, maintaining, and verifying the accuracy of any proprietary information submitted to the board by commercial mobile radio service providers.

(ii) Due to the confidential and proprietary nature of the information submitted by commercial mobile radio service providers, the information shall be retained by the independent auditor in confidence, shall be subject to review only by the Auditor of State, and shall not be subject to the Freedom of Information Act of 1967, § 25-19-101 et seq., nor released to any third party.

(iii) The information collected by the independent auditor shall be released only in aggregate amounts that do not identify or allow identification of numbers of subscribers or revenues attributable to an individual commercial mobile radio service provider.

(3) Commercial mobile radio service providers, voice over internet protocol, or other nontraditional communications providers shall be entitled to retain one percent (1%) of the fees collected under subdivision (b)(1)(A) of this section as reimbursement for collection and handling of the charges.

(d)(1) Notwithstanding any other provision of the law, in no event shall any commercial mobile radio, voice over internet protocol service, or nontraditional service provider, or its officers, employees, assigns, or agents be liable for civil damages or criminal liability in connection with the development, design, installation, operation, maintenance, performance, or provision of 911 service.

(2) Nor shall any commercial mobile radio, voice over internet protocol, or nontraditional service provider, its officers, employees, assigns, or agents be liable for civil damages or be criminally liable in connection with the release of subscriber information to any governmental entity as required under the provisions of this subchapter.

(e) The service charge shall have uniform application and shall be imposed throughout the political subdivision to the greatest extent possible in conformity with availability of the service in any area of the political subdivision.

(f)(1) An emergency telephone service charge, except with regard to the commercial mobile radio service emergency telephone service charge, shall be imposed only upon the amount received from the tariff rate exchange access lines.

(2)(A) If there is no separate exchange access charge stated in the service supplier's tariffs, the governing authority shall, except with regard to the commercial mobile radio service emergency telephone service charge, determine a uniform percentage not in excess of eighty-five percent (85%) of the tariff rate for basic exchange telephone service.

(B) This percentage shall be deemed to be the equivalent of tariff rate exchange access lines and shall be used until such time as the service supplier establishes such a tariff rate.

(3)(A) No service charge shall be imposed upon more than one hundred (100) exchange access facilities per person per location.

(B) No service charge shall be imposed upon more than one hundred (100) voice over internet protocol connections per person per location.

(C) Trunks or service lines used to supply service to commercial mobile radio service providers shall not have a service charge levied against them.

(4) Any emergency telephone service charge, including the commercial mobile radio service emergency telephone service charge, shall be added to and may be stated separately in the billing by the service supplier to the service user.

(5) Every billed service user shall be liable for any service charge imposed under this subsection until it has been paid to the service supplier.

(g) The political subdivision may pursue against a delinquent service user any remedy available at law or in equity for the collection of a debt.

Location Information of a Wireless Telecommunications Device in an Emergency Situation

12-12-1901. Definitions

As used in this subchapter:

(1) “Commercial mobile radio service” means a commercial mobile service under 47 U.S.C. § 151 et seq., Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66;

(2) “Contact information” means the name of a person or a compilation of names of persons who can immediately respond to and facilitate a request for location information from a public safety agency at any time;

(3) “Geolocation” means the identification or estimation of a geographic location of an internet-enabled device connected to a computer network;

(4) “Internet protocol (IP) address” means a numerical label assigned to each device connected to a computer network that uses internet protocol for communication;

(5) “Law enforcement agency” means the Division of Arkansas State Police, the Attorney General's office, a prosecuting attorney's office, a county sheriff's department, a municipal police department, or a state agency with a law enforcement division;

(6) “Location information” means cell site or other geographic location estimate information in possession of a commercial mobile radio service provider; and
(7) “Public safety agency” means an agency that provides firefighting, law enforcement, medical, or other emergency services.

12-12-1902. Commercial mobile radio service or internet service provider to provide information upon request
a) Upon request of a law enforcement agency, a commercial mobile radio service provider shall provide location information of a wireless telecommunications device and an internet service provider shall provide geolocation information of an internet protocol (IP) address to the law enforcement agency, in the most expeditious manner reasonably available to the internet service provider, in order that the law enforcement agency may respond to a call for emergency services or to an emergency situation that involves the risk of death or serious physical harm.
(b) This section does not prohibit a commercial mobile radio service provider or an internet service provider from establishing protocols by which the commercial mobile radio service provider or the internet service provider may voluntarily disclose location information or geolocation information.
(c) Within five (5) days of providing location information or geolocation information to a requesting law enforcement agency, a commercial mobile radio service provider or an internet service provider that supplied the law enforcement agency with location information or geolocation information under this subchapter may request, and the law enforcement agency shall provide, the court order, subpoena, or search warrant, as applicable, outlining the request made and the actions taken by the law enforcement agency.

12-12-1903. Limitation of Liability
Notwithstanding any other provision of law, a commercial mobile radio service provider or an internet service provider, or the officers, employees, assigns, or agents of a commercial mobile radio service provider or an internet service provider are not liable for civil damages or criminal liability in connection with the development, design, installation, operation, maintenance, performance, release, or provision of location information or geolocation information or for any failure to timely process or release any request for location information or geolocation information as may be necessary under this subchapter.

12-12-1904. Providers to submit contact information to Arkansas Crime Information Center
A commercial mobile radio service provider or internet service provider either authorized to do business in the state or that has submitted to the jurisdiction of the state shall immediately submit all contact information to the Arkansas Crime Information Center and shall immediately update the contact information as changes occur.
12-12-1905. Additional duties of Arkansas Crime Information Center
The Arkansas Crime Information Center shall make available the contact information obtained under § 12-12-1904 on at least a quarterly basis or immediately as changes occur to each public safety agency in the state.

12-12-1906. Prohibitions against abuse
(a) A commercial mobile radio service provider or internet service provider that believes the requirements of this subchapter are being abused by a law enforcement agency or a specific law enforcement officer may report the suspected abuse to the Division of Arkansas State Police for further investigation.
(b) If the law enforcement agency that the commercial mobile radio service provider or internet service provider believes is abusing the requirements of this subchapter is the Division of Arkansas State Police, the commercial mobile radio service provider or internet service provider may report the suspected abuse to the Attorney General.

Arkansas Emergency Services Act of 1973

12-75-101. Title.
This chapter may be cited as the Arkansas Emergency Services Act of 1973.

12-75-102. Policy and purposes.
(a) Because of the existing and increasing possibility of the occurrence of a major emergency or a disaster of unprecedented size and destructiveness resulting from enemy attack, natural or human-caused catastrophes, or riots and civil disturbances and in order to ensure that this state will be prepared to deal with such contingencies in a timely, coordinated, and efficient manner and generally to provide for the common defense and protect the public peace, health, safety and preserve the lives and property of the state, it is found and declared to be necessary to:
(1) Create from the present Office of Emergency Services and current adjunct offices the Arkansas Department of Emergency Management and authorize and direct the creation of comparable local organizations within the political subdivisions of the state;
(2) Confer upon the Governor and upon the executive heads of the political subdivisions of the state the emergency powers provided herein;

(3) Provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government with respect to carrying out emergency management functions;
(4) Direct the establishment of emergency management liaison offices within each state department and agency with an emergency management role or responsibility; and
(5) Provide for workers' compensation benefits for emergency management workers performing emergency management operations.
(b) It is further declared to be the purpose of this chapter and the policy of the state to authorize and provide for a disaster management system embodying all aspects of predisaster preparedness and post-disaster response by requiring all:
(1) State and local government offices to coordinate emergency management activities through the department in order to coordinate personnel, equipment, and resources for the most effective and economical use; and
(2) Emergency management-related functions of this state be coordinated to the maximum extent with comparable functions of the federal government, including its various departments and agencies, with other states and localities, and with private agencies of every type, to the end that the most effective preparation and use may be made of the state and national personnel, resources, and facilities for dealing with any disaster that may occur.
(c)
(1) The protection of lives and property is the responsibility of all levels of government.
(2) Except as noted in this chapter, county and municipal governments bear primary responsibility for initial actions and activities related to disaster preparedness, response, and recovery for the county and the municipalities in the county through their local offices of emergency management, with support from the department.
(d)(1)(A) When events have exceeded, or will exceed, local government's ability to respond or recover without state assistance, the chief executive officer shall declare a local state of disaster or emergency as prescribed in this chapter to signify his or her intent to request resources of the state or federal government, or both.
(B) Where time constraints are critical to the saving of lives and property, the local chief executive officer may verbally declare a local state of disaster or emergency to the Director of the Arkansas Department of Emergency Management, to be followed by a written declaration as soon as practicable.
(2)
(A) Only upon such declaration may the resources of the state be provided, and then may the state request that the assistance and resources of the federal government be provided, unless and except where the magnitude of the disaster is of such severity that the functions of local government have ceased or the chief executive officer of the municipal or county government, or both, and his or her designated successor have become incapacitated.
(B) Under such conditions the Governor may declare a state of disaster or emergency on behalf of the specified local jurisdiction and direct emergency functions until such time as local government is restored.

12-75-103. Definitions.

As used in this chapter:
(1) "Chief executive" means a head of government, the Governor, a county judge, and a mayor or city manager of incorporated places, dependent on the form and level of government;
(2) "Disaster" means any tornado, storm, flood, high water, earthquake, drought, fire, radiological incident, air or surface-borne toxic or other hazardous material contamination, or other catastrophe, whether caused by natural forces, enemy attack, or any other means which:
(A) In the determination of the Governor or the Director of the Arkansas Department of Emergency Management or his or her designee is or threatens to be of sufficient severity and magnitude to warrant state action or to require assistance by the state to supplement the efforts and available resources of local governments and relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, and with respect to which the chief executive of any political subdivision in which the disaster occurs or threatens to occur certifies the need for state assistance and gives assurance of the local government for alleviating the damage, loss, hardship, or suffering resulting from such disaster; or
(B) (i) Results in an interruption in the delivery of utility services when emergency declarations are required and when delays in obtaining an emergency declaration from the Governor or the director or his or her designee would hamper and delay restoration of utility service.
(ii) In those instances, the Governor or the director or his or her designee may make such emergency determination subsequent to the initiation of the restoration work;
(3) "Emergency jurisdiction" means any one (1) of the seventy-five (75) counties or specified local offices of emergency management or interjurisdictional offices of emergency management in the state;
(4)(A) "Emergency management" means disaster or emergency preparedness, mitigation, response, recovery, and prevention by state and local governments other than functions for which military forces are primarily responsible to prevent, minimize, and repair injury and damage resulting from major emergencies or from disasters caused by enemy attack, domestic or foreign terrorist attacks, natural causes, human-made catastrophes, or civil disturbances.
(B) These functions include, without limitation:
(i) Fire fighting;
(ii) Law and order;
(iii) Medical and health;
(iv) Rescue;
(v) Engineering;
(vi) Warning;
(vii) Communications;
(viii) Radiological, chemical, biological, or other special material identification, measurement, and decontamination;
(ix) Evacuation or relocation of persons from stricken areas;
(x) Emergency social services such as housing, feeding, and locator services;
(xi) Emergency transportations;
(xii) Plant protection;
(xiii) Damage assessment and evaluation;
(xiv) Temporary restoration of public facilities;
(xv) Emergency restoration of publicly owned utilities, or privately owned utilities serving the public good;
(xvi) Debris clearance;

(xvii) Hazard vulnerability and capability analysis; and
(xviii) Other functions related to the protection of the people and property of the state, together with all other activities necessary or incidental to the preparedness, mitigation, response, recovery, and prevention for all the functions in this subdivision (4)(B);
(5) "Emergency management requirements" means specific actions, activities, and accomplishments required for funding of state offices of emergency management or established local offices of emergency management, or both, under applicable state and federal emergency management program guidance and regulations;
(6) "Emergency management standards" means standards of training, education, and performance established by the director for employees of the state offices of emergency management and established local offices of emergency management designed to ensure competency and professionalism and to determine minimum qualifications for the receipt of federal or state emergency management funding, or both;
(7) (A) "Emergency responder" means any paid or volunteer person or entity:
(i) With special skills, qualifications, training, knowledge, or experience in the public or private sectors that would be beneficial to an emergency jurisdiction in an emergency declared under § 12-75-108 or training exercises authorized by the United States Department of Homeland Security, the Arkansas Department of Emergency Management, or an emergency jurisdiction; and
(ii) Who is:
(a) Requested by a participating emergency jurisdiction to respond or assist with a declared emergency or with authorized training exercises;
(b) Authorized to respond or assist a participating emergency jurisdiction with a declared emergency or with authorized training exercises; or
(c) Both requested and authorized to respond or assist a participating emergency jurisdiction with a declared emergency or with authorized training exercises.
(B) An emergency responder may include, without limitation, the following types of personnel:
(i) Law enforcement officers;
(ii) Firefighters;
(iii) Hazardous material response personnel;
(iv) Decontamination response personnel;
(v) Certified bomb technicians;
(vi) Emergency medical services personnel;
(vii) Physicians;
(viii) Nurses;
(ix) Public health personnel;
(x) Emergency management personnel;
(xi) Public works personnel;
(xii) Members of community emergency response teams;
(xiii) Emergency personnel of nongovernmental organizations; and
(xiv) Persons with specialized equipment operations skills or training or any other skills valuable to responding or assisting a participating emergency jurisdiction with a declared emergency or with authorized training exercises.
(C) "Emergency responder" includes any full-time or part-time paid, volunteer, or auxiliary employee of the state, another state, a territory, a possession, the District of Columbia, the federal government, any neighboring country, or any political subdivision thereof, or of any agency or organization performing emergency management services at any place in this state subject to the order or control of, or pursuant to, a request of the state government or any political subdivision;
(8) "Governing body" means a county quorum court, a city council, and a city board of directors;
(9)(A) "Hazard mitigation assistance" means funds and programs to correct, alleviate, or eliminate a condition or situation which poses a threat to life, property, or public safety from the effects of a disaster.
(B) Hazard mitigation assistance may include, but is not limited to, raising, replacing, removing, rerouting, or reconstructing existing public facilities such as roads, bridges, buildings, equipment, drainage systems, or other public or private nonprofit property, as defined in the Disaster Relief Act of 1974, 38 U.S.C. § 3720 and 42 U.S.C. § 5121 et seq.;
(10) "Individual assistance" means funds and programs to provide for the immediate needs, including, but not limited to, food, clothing, and shelter for individuals and families;
(11) (A) "Interjurisdictional agreement" means a mutual agreement between two (2) or more established local offices of emergency management that is approved by executive order of the Governor in accordance with this chapter to merge, integrate, or otherwise combine the functions of the respective established local offices of emergency management for more effective, economical, and efficient use of available personnel and resources.
(B) An interjurisdictional agreement shall include specific provisions addressing the appointment, funding, administration, and operational control of the emergency management coordinator and staff of the interjurisdictional office of emergency management;
(12) "Interjurisdictional office of emergency management" means an office of emergency management formed by two (2) or more local offices of emergency management under an interjurisdictional agreement;
(13) "Local office of emergency management" means a county or municipal office of emergency management created and established in accordance with the provisions of this chapter to perform local emergency management functions within the existing political subdivisions of the state;
(14) "Major emergency" means a condition which requires the activation of emergency response at the state or local levels, either in anticipation of a severe disaster such as an imminent enemy attack, potential civil disturbance, forecast major natural or human-caused disaster, or actual onset of conditions requiring the use of such forces which exceed the day-to-day response and activities of such forces and requires the coordinating of a complement of local, state, federal, or volunteer organizations;
(15)(A)(i) "Operational control" means the assigning of missions and the exercising of immediate command and overall management of all resources committed by state or local government to a disaster operation or major emergency.
(ii) Unless otherwise delegated by executive order, the chief executive of the state or local governments, the director, or head of the local office of emergency management as the

chief executive's direct representative will exercise operational control of the occurrence and assign missions.
(B) Each agency, department, or organization will exercise control and authority over its personnel and resources to accomplish the assigned mission.
(C)(i) Each agency, department, or organization will coordinate activities through the Arkansas Department of Emergency Management or local office of emergency management exercising operational control of the occurrence.
(ii) Operational control does not imply, nor is it intended to include, administrative management, which will remain with the parent organization;
(16) "Participating emergency jurisdiction" means an emergency jurisdiction participating in the statewide mutual aid system established in § 12-75-119;
(17) "Political subdivision" means all duly formed and constituted governing bodies created and established under the authority of the Arkansas Constitution and laws of this state;
(18) "Public assistance" means funds and programs to make emergency repairs or restoration of public facilities, to include, but not be limited to, publicly owned or maintained facilities such as roads, streets, bridges, utilities, schools, and other structures and facilities;
(19)(A) "Public safety agency" means an agency of the State of Arkansas or a functional division of a political subdivision that provides firefighting and rescue, natural or human-caused disaster or major emergency response, law enforcement, and ambulance or emergency medical services.
(B) State offices of emergency management and local offices of emergency management are considered in the context and definition of public safety agencies for performance or coordination of functions defined as emergency management to the extent necessary for mitigation of, planning for, response to, and recovery from disasters or major emergencies;
(20) "Public safety officer" means those positions of state offices of emergency management and local offices of emergency management approved by the director in state and local staffing patterns and authorized by him or her to perform or coordinate emergency management functions to the extent necessary for mitigation of, planning for, response to, recovery from, or prevention of disasters or major emergencies within limitations of this chapter;
(21) "Response assistance" means funds to defray the costs of response to an emergency that does not necessarily result in a disaster of the magnitude and scope described in this section, but which requires the deployment and utilization of state and local government and private emergency personnel, equipment, and resources to protect and preserve lives and property and for the welfare of the citizens of Arkansas; and
(22) "Utility services" means the transmission of communications or the transmission, distribution, or delivery of electricity, water, or natural gas for public use.

12-75-104. Scope of chapter -- Limitations.
Nothing in this chapter shall be construed to:
(1) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health and safety;
(2)(A) Interfere with dissemination of news or comment on public affairs.
(B) However, any communications facility or organization, including, but not limited to, radio and television stations, wire services, and newspapers may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster emergency;
(3)(A) Affect the jurisdiction or responsibilities of units of the United States Armed Forces or of any personnel thereof, when on active duty, or the day-to-day operations of law enforcement agencies or firefighting forces.
(B) However, state, local, and interjurisdictional disaster or emergency operations plans shall place emphasis upon maximum utilization of forces available for performance of functions related to disaster and major emergency occurrences; or
(4) Limit, modify, or abridge the authority of the Governor to proclaim martial law or of the Governor or chief executive of a political subdivision to exercise any other powers vested in him or her under the Arkansas Constitution or statutes or common law of this state independent of, or in conjunction with, any provision of this chapter.

12-75-105 [repealed]

12-75-106. Enforcement.
(a) Each state office of emergency management and local office of emergency management and the officers of each state office of emergency management and local office of emergency management shall execute and enforce such orders, rules, and regulations as may be made by the Governor under authority of this chapter.
(b) Each state office of emergency management and local office of emergency management shall make available for inspection at its office all orders, rules, and regulations made by the Governor or made under his or her authority.

12-75-107. Declaration of disaster emergencies.
(a)(1) A disaster emergency shall be declared by executive order or proclamation of the Governor if he or she finds a disaster has occurred or that the occurrence or the threat of disaster is imminent.
(2) When time is critical because of rapidly occurring disaster emergency events, the Governor may verbally declare for immediate response and recovery purposes until the formalities of a written executive order or proclamation can be completed in the prescribed manner.
(b)(1) The state of disaster emergency shall continue until:
(A) The Governor finds that the threat or danger has passed and terminates the state of disaster emergency by executive order or proclamation; or
(B) The disaster has been dealt with to the extent that emergency conditions no longer exist and the employees engaged in the restoration of utility services have returned to the point of origin.
(2)(A) Except as provided in subdivision (b)(2)(B) of this section, a state of disaster emergency shall not continue for longer than sixty (60) days unless renewed by the Governor.

(B) A statewide state of disaster emergency related to public health under subsection (g) of this section shall not continue for longer than sixty (60) days unless renewed by the Governor, so long as the Legislative Council does not vote to deny the request for renewal.
(c)(1)(A) The General Assembly n1 may terminate a state of disaster emergency, including without limitation a statewide state of disaster emergency related to public health under subsection (g) of this section, at any time by the passage of a concurrent resolution terminating the state of disaster emergency.
(B)(i) The House of Representatives shall debate and vote upon a concurrent resolution to terminate a state of disaster emergency under subdivision (c)(1)(A) of this section at a committee of the whole called either by the Speaker of the House of Representatives or upon the written request of at least fifty-one (51) members of the House of Representatives.
(ii) The House of Representatives may convene a committee of the whole to consider a concurrent resolution to terminate a state of disaster emergency at any time, including without limitation during a regular, fiscal, or extraordinary session of the General Assembly.
(C)(i) The Senate shall debate and vote upon a concurrent resolution to terminate a state of disaster emergency under subdivision (c)(1)(A) of this section at a committee of the whole called either by the President Pro Tempore of the Senate or upon the written request of at least eighteen (18) members of the Senate.
(ii) The Senate may convene a committee of the whole to consider a concurrent resolution to terminate a state of disaster emergency at any time, including without limitation during a regular, fiscal, or extraordinary session of the General Assembly.
(2) If the General Assembly enacts a concurrent resolution terminating a state of disaster emergency under subdivision (c)(1) of this section, the state of disaster emergency shall terminate on the date on which the state of disaster emergency will expire as provided in the executive order or proclamation declaring the state of disaster emergency unless the concurrent resolution provides for an earlier date of termination.
(3) If the Governor vetoes or otherwise does not approve a concurrent resolution terminating a state of disaster emergency within five (5) days, Sundays excepted, of its presentation to him or her, the House of Representatives and the Senate may convene a committee of the whole in the same manner provided in subdivisions (c)(1)(B) and (C) of this section for the purpose of debating and voting upon a repassage of the concurrent resolution that will override the Governor's failure to approve the concurrent resolution.
(d)(1) All executive orders or proclamations issued under this section shall indicate the nature of the disaster, the area or areas threatened, and the conditions which have brought it about or which make possible termination of the state of disaster emergency.
(2) In the case of a disaster, each provider of utility services whose services were interrupted shall prepare a report describing:
(A) The type of disaster emergency;
(B) The duration of the disaster emergency, which includes the time the utility personnel is dispensed to the work site and returns to the personnel's point of origin; and
(C) The personnel utilized in responding to the disaster emergency.
(3) If the disaster is related to public health, including without limitation an infectious, contagious, and communicable disease, then the executive order or proclamation shall specify that the state of disaster emergency is related to public health.
(e) An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent or impede, filed promptly with the Secretary of State.
(f) An executive order or proclamation of a state of disaster emergency shall activate the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to disaster emergencies.
(g)(1) The Governor shall declare a statewide state of disaster emergency related to public health if a disaster related to public health, including without limitation an infectious, contagious, and communicable disease, includes:
(A) At least nineteen (19) counties of the state, either at one (1) time or in the aggregate, if the states of disaster emergency are related to the same disaster related to public health; or
(B) A total number of persons in counties under a state of disaster emergency related to public health equal to or greater than twenty-five percent (25%) of the population of the State of Arkansas according to the most recent federal decennial census, either at one (1) time or in the aggregate, if the states of disaster emergency are related to the same disaster related to public health.
(2)(A) The House of Representatives and the Senate shall each convene as a committee of the whole within eight (8) business days of the declaration of a statewide state of disaster emergency related to public health to vote upon and debate a concurrent resolution to terminate the statewide state of disaster emergency related to public health.
(B) The House of Representatives and the Senate may each convene as a committee of the whole under subdivision (g)(2)(A) of this section at any time, including without limitation during a regular, fiscal, or extraordinary session of the General Assembly.
(C)(i) If the General Assembly enacts a concurrent resolution to terminate the statewide state of disaster emergency related to public health at committees of the whole under subdivision (g)(2)(A) of this section, the statewide state of disaster emergency related to public health shall terminate on the date on which the statewide state of disaster emergency related to public health will expire as provided in the executive order or proclamation declaring the statewide state of disaster emergency related to public health, unless the concurrent resolution provides for an earlier date of termination.

(ii) This subdivision (g)(2)(C) does not prohibit the Governor from terminating a statewide state of disaster emergency related to public health at a date earlier than the date specified in the resolutions of the House of Representatives and Senate terminating the statewide state of disaster emergency related to public health.
(D) If the Governor vetoes or otherwise does not approve a concurrent resolution terminating a statewide state of disaster emergency related to public health within five (5) days, Sundays excepted, of its presentation to him or her, the House of Representatives and the Senate may convene a committee of the whole in the manner provided in subdivisions (c)(1)(B) and (C) of this section for the purpose of debating and voting upon a repassage of the concurrent resolution that will override the Governor's failure to approve the concurrent resolution.
(3)(A) If the General Assembly does not terminate a statewide state of disaster emergency related to public health, the statewide state of disaster emergency related to public health shall not continue for longer than sixty (60) days from the date of the executive order or proclamation declaring the statewide state of disaster emergency related to public health unless renewed by the Governor, so long as the Legislative Council does not vote to deny the request for renewal.
(B) If the Governor desires to renew a statewide state of disaster emergency related to public health, he or she shall submit a written statement to the Legislative Council at least ten (10) days prior to the date on which the statewide state of disaster emergency related to public health will expire that includes without limitation the following information:
(i) The number of days that the statewide state of disaster emergency related to public health will continue, not to exceed sixty (60) days; and
(ii) The rationale for continuing the statewide state of disaster emergency related to public health.
(C) A statewide state of disaster emergency related to public health under this subdivision (g)(3) shall be renewed unless, by a majority vote of a quorum present, the Legislative Council votes to deny the Governor's request for renewal.
(D) After receiving the written statement of the Governor under subdivision (g)(3)(B) of this section, the Legislative Council may consider the renewal of a statewide state of disaster emergency related to public health under subdivision (g)(3)(A) of this section at any time prior to the expiration of the statewide state of disaster emergency related to public health.
(E) If the Legislative Council does not deny the Governor's request for renewal by a majority vote of a quorum present, the statewide state of disaster emergency related to public health shall be renewed for the number of days specified by the Governor in the written statement under subdivision (g)(3)(B)(i) of this section.
(h)(1) If a state of disaster emergency related to public health is not statewide upon its initial declaration but later becomes statewide by the addition of areas to the state of disaster emergency declaration, the Governor shall declare a statewide state of disaster emergency related to public health under subdivision (g)(1) of this section.
(2) The statewide state of disaster emergency declaration under subdivision (h)(1) of this section shall supersede past state of disaster emergency declarations related to the same disaster related to public health.
(i)(1) The Legislative Council may meet at any time to perform its duties under this section, including without limitation during a regular session, fiscal session, or extraordinary session of the General Assembly.
(2) The duties of the Legislative Council under this section shall not be delegated to a subset of the membership of the Legislative Council, including without limitation a subcommittee of the Legislative Council.
(3) The Legislative Council may adopt rules concerning the performance of its duties under this section.

12-75-108. Local disaster emergencies -- Declaration.
(a)(1) A local disaster emergency may be declared only by the chief executive or his or her designee of a political subdivision.
(2) If time is critical because of a rapidly occurring disaster emergency event, the chief executive verbally may declare a local disaster emergency for immediate response and recovery purposes until the formalities of a written declaration can be completed in the prescribed manner.
(3) A declaration of a local disaster emergency shall not be continued or renewed for a period in excess of one hundred twenty (120) days except by or with the consent of the governing body of the political subdivision.
(4) Any order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly with the city or county clerk, as applicable.
(b)(1) The effect of a declaration of a local disaster emergency is to activate the response and recovery aspects of any and all applicable local or interjurisdictional disaster emergency plans, to authorize the furnishing of aid and assistance thereunder, and to initiate emergency management functions under this chapter.
(2)(A) In addition to other powers conferred on the chief executive declaring a local disaster emergency, the chief executive may suspend the provisions of any local regulatory ordinances or regulations for up to thirty (30) days if strict compliance with the ordinance provisions would prevent, hinder, or delay necessary actions to cope with the disaster emergency.
(B) Local regulatory ordinances include, but are not limited to:
(i) Zoning ordinances;
(ii) Subdivision regulations;
(iii) Regulations controlling the development of land;
(iv) Building codes;
(v) Fire prevention codes;
(vi) Sanitation codes;
(vii) Sewer ordinances;
(viii) Historic district ordinances; and
(ix) Any other regulatory type ordinances.
(c)(1) An interjurisdictional office of emergency management or official of an interjurisdictional office of emergency management shall not declare a local disaster emergency unless expressly authorized by the interjurisdictional agreement under which the interjurisdictional office of emergency management functions.
(2) However, an interjurisdictional office of emergency management shall provide aid and services in accordance

with the interjurisdictional agreement under which it functions.
(d) If a county judge uses county labor and equipment on private property to provide services that are required as a result of the natural disaster, the county judge shall notify the owner of the private property by any possible method as soon as practicable of:
(1) The amount of private property necessary to provide services;
(2) The nature of labor and equipment to be used on the private property;
(3) The estimated amount of time the private property will be used to provide services; and
(4)(A) The estimated amount of compensation the county will provide to the owner of the private property as a result of damage to the private property caused by the county.
(B) Within sixty (60) days from the removal of county labor and equipment from the private property, the county shall compensate the owner of the private property for reasonable damage to the property.

12-75-109. Arkansas Department of Emergency Management -- Establishment -- Personnel.
(a) The Division of Emergency Management is established as a public safety agency of the State of Arkansas.
(b)(1) The Division of Emergency Management shall have a Director of the Division of Emergency Management who is appointed by the Governor, with the advice and consent of the Senate, and who shall serve at the pleasure of the Governor.
(2) The director shall report to the Secretary of the Department of Public Safety.
(c)(1) The division shall have such professional, technical, secretarial, and clerical employees and may make such expenditures within its appropriations or from any federal or other funds made available to it from any source whatsoever for the purpose of emergency services, as may be necessary to carry out the purposes of this chapter.
(2) All such employees shall be in job positions as approved by the secretary and the Office of Personnel Management.
(d)(1) There is created within the division an emergency reserve cadre to be composed of trained and available specialists to assist regular employees during declared disaster response and recovery operations.
(2) The director shall establish training and professional standards required to supplement state personnel based on state and federal disaster recovery program needs and shall establish a list of persons with those qualifications and make available to emergency reserve cadre personnel such additional training and education opportunities as may be needed to maintain currency and proficiency in the needed skills.
(3)(A) Emergency reserve cadre personnel shall be reimbursed at the current state classified entry level salary rate for the position they are temporarily employed to fill and meet such additional training, experience, and qualifications as established by the director for the grade level of the position for which they are employed.
(B) Emergency reserve cadre personnel shall:
(i) Be paid from disaster management funds or administrative funds, or both;
(ii) Be limited to salary, logistical, and travel expenses only; and
(iii) Not accrue ordinary leave, sick leave, or other employee benefits except for workers' compensation eligibility for injuries or death suffered in the line of duty.
(4)(A) Emergency reserve cadre personnel may be called to active duty upon declaration of a disaster emergency as stipulated in this chapter or the Disaster Relief Act of 1974, Pub. L. No. 93-288, or both, or by executive order of the Governor upon recommendation by the director for due cause or pending emergency needs or for disaster-related assistance to the division as determined by the director and shall remain on active duty no longer than the maximum allowed by the office for part-time employment status.
(B) Based on the size, impact, and magnitude of the disaster event, the director shall determine the minimum number of emergency reserve cadre personnel required to effectively supplement regular state emergency management personnel.
(5) While in service described in subdivision (d)(4)(A) of this section, the emergency reserve cadre personnel have the same immunities as regular state employees for good faith performance of their designated and assigned official duties under state sovereignty laws and practices.

12-75-110. Arkansas Department of Emergency Management -- State emergency operations plan.
(a) The Division of Emergency Management shall coordinate and maintain a state emergency operations plan and keep it current, which plan may include:
(1) Prevention and minimization of injury and damage caused by disaster;
(2) Measures for prompt and effective response to disasters;
(3) Emergency relief;
(4) Identification of areas particularly vulnerable to disasters;
(5) Recommendations for zoning, building, and other land use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
(6) Assistance to local officials in designing local emergency action plans;
(7) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disasters;
(8) Preparation and distribution to appropriate state and local officials of state catalogues of federal, state, and private assistance programs;
(9) Organization of personnel and the establishment of chains of command;
(10) Coordination of federal, state, and local disaster activities;
(11) Coordination of the state emergency operations plan with the operations plans of the federal government, including without limitation, the National Response Framework;
(12) Establishment of the criteria and definitions for determining catastrophic losses suffered by both individuals and public entities and the enhanced levels of assistance to be provided upon the declaration of a catastrophic loss disaster; and

(13) Other necessary matters.
(b)(1) In preparing and revising the state emergency operations plan, the division shall seek the advice and assistance of state agencies, local government, business, labor, industry, agriculture, civic, and volunteer organizations, and community leaders.
(2) In advising local and jurisdictional agencies, the division shall encourage them also to seek advice from the entities listed in subdivision (b)(1) of this section.
(c) The state emergency operations plan or any part of the state emergency operations plan may be incorporated in rules of the division or executive orders that have the force and effect of law.

12-75-111. Arkansas Department of Emergency Management -- Other powers and duties.
(a) The Division of Emergency Management shall, with the assistance and cooperation of other state and local government agencies:
(1) Determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of an emergency;
(2) Procure and pre-position supplies, medicines, materials, and equipment;
(3) Promulgate standards and requirements for local and interjurisdictional emergency operations plans;
(4) Periodically review local and interjurisdictional emergency operations plans;
(5) Provide for mobile support units;
(6) Establish and operate or assist political subdivisions, their local offices of emergency management, and interjurisdictional offices of emergency management to establish and operate training programs and programs of public information;
(7) Make surveys of industries, resources, and facilities within the state, both public and private, as are necessary to carry out the purposes of this chapter;
(8) Plan and make arrangements for the availability and use of any private facilities, services, and property and, if necessary and if in fact used, provide for payment for use under terms and conditions agreed upon;
(9) Establish a register of persons with types of training and skills important in emergency prevention, preparedness, response, and recovery;
(10) Establish a register of mobile and construction equipment and temporary housing available for use in a disaster emergency;
(11) Prepare for issuance by the Governor of executive orders, proclamations, and rules as necessary or appropriate in coping with disasters;
(12) Cooperate with the federal government and any public or private agency or entity in achieving the purpose of this chapter and in implementing programs for disaster prevention, preparation, response, and recovery; and
(13) Do other things necessary, incidental, or appropriate for the implementation of this chapter.
(b)(1) The Division of Emergency Management shall take an integral part in the development and revision of local and interjurisdictional emergency operations plans prepared under § 12-75-118.
(2)(A) To meet the requirements of subdivision (b)(1) of this section, the Division of Emergency Management shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, their local offices of emergency management, interjurisdictional planning, and interjurisdictional offices of emergency management.
(B) Personnel described in subdivision (b)(2)(A) of this section shall consult with political subdivisions, local offices of emergency management, and interjurisdictional offices of emergency management on a regularly scheduled basis and shall make field examinations of the area, circumstances, and conditions to which particular local and interjurisdictional emergency operations plans are intended to apply and may suggest or require revisions.
(c)(1) The Division of Emergency Management shall administer and operate the Arkansas Wireless Information Network.
(2) The Division of Emergency Management shall perform all functions necessary to maintain and operate the Arkansas Wireless Information Network, including without limitation:
(A) Employ personnel;
(B) Manage, maintain, and acquire all equipment and assets;
(C) Enter into contracts and lease agreements on behalf of the Arkansas Wireless Information Network; and
(D) Administer the budget, expenditures, and all funding of the Arkansas Wireless Information Network.
(3)(A) The Arkansas Wireless Information Network may accept moneys from governmental and nongovernmental entities.
(B) The division shall deposit moneys received under subdivision (c)(3)(A) of this section into a fund to be used for the purpose of operation, acquisition, installation, enhancement, and maintenance of the equipment of the Arkansas Wireless Information Network.
(d)(1) The Division of Emergency Management shall administer the Arkansas Continuity of Operations Program.
(2) The Arkansas Continuity of Operations Program shall assist state departments, boards, and commissions to:
(A) Develop an emergency operations plan;
(B) Maintain an emergency operations plan; and
(C) Test an emergency action plan.
(3) The Arkansas Continuity of Operations Program shall provide or assist a state department, board, or commission with emergency operation plan:
(A) Methodology;
(B) Hardware;
(C) Software;
(D) Training; and
(E) User assistance.
(4) The Division of Emergency Management may request the assistance of the Division of Information Systems in reviewing technology related emergency operation plans.

12-75-112. Communications networks.
(a) The Division of Emergency Management shall operate and maintain information systems which will make available both voice and data links with federal agencies, other states, and state agencies as are assigned an emergency management role in the state emergency operations plan and local offices of emergency management.
(b) In addition to the minimum requirements of subsection (a) of this section, additional information systems networks

may be established as deemed necessary by the Director of the Division of Emergency Management.

12-75-113. Emergency response vehicles.
(a) Due to the time-critical nature of response to the scene of a disaster or major emergency occurrence, the Director of the Division of Emergency Management may designate appropriate vehicles as requested in the staffing patterns of the state offices of emergency management and local offices of emergency management and designate other state agency vehicles with an emergency management response requirement as emergency response vehicles.
(b) Designated state and local government emergency response vehicles under this chapter shall share the same privileges and immunities regarding traffic laws and ordinances as other emergency vehicles as defined by state law.
(c) Emergency vehicles authorized by this chapter shall be identified by a flashing light or rotating beacon which will be green in color.
(d) When responding to an emergency, the designated emergency vehicle shall have flashing lights or rotating beacon activated and must be equipped with and operating a siren device.

12-75-114. Governor -- Disaster emergency responsibilities.
<Arkansas Executive Order 21-14 (issued 7-29-21) declared a statewide public emergency to mitigate the impact of the Delta Variant of COVID-19 on the Arkansas healthcare system, to expire in sixty days from the signing of the order. See 2021 AR EO 21-14 on Westlaw, and Historical and Statutory Notes, below.>
(a) The Governor is responsible for meeting and mitigating, to the maximum extent possible, dangers to the people and property of the state presented or threatened by disasters.
(b)(1) Under this chapter, the Governor may issue executive orders, proclamations, and rules and amend or rescind them.
(2) Executive orders, proclamations, and regulations have the force and effect of law.
(c)(1) There is created within the office of the Governor a disaster response and recovery fund and a hazard mitigation fund, which are separate and apart from the Governor's standard emergency fund.
(2) The amount of the disaster response and recovery fund shall be ten million two hundred fifty thousand dollars ($10,250,000) for use to defray the cost of immediate emergency response.
(3) The amount of the hazard mitigation fund shall be six million dollars ($6,000,000), solely for use in hazard mitigation assistance.
(4) The Governor's disaster response and recovery fund may be increased from time to time at the discretion of the Governor.
(5) Expenditures from the disaster response and recovery fund may only be made in the event of a disaster as defined in § 12-75-103 and only upon proclamation by the Governor.
(6) Expenditures from the disaster response and recovery fund shall be made by executive order of the Governor, upon recommendation and verification by the Director of the Division of Emergency Management, and may only be made to defray immediate costs associated with response activities by emergency forces of state and local governments and private nonprofit forces duly registered in accordance with § 12-75-129.
(7)(A) Expenditures from the hazard mitigation fund shall be made by executive order of the Governor.
(B) The director shall establish and maintain a current hazard vulnerability analysis of key critical public facilities eligible for assistance under the Governor's hazard mitigation fund.
(d)(1) During the continuance of any state of disaster emergency, the Governor is Commander-in-Chief of all forces available for emergency duty.
(2) To the greatest extent practicable, the Governor shall delegate or assign operational control by prior arrangement embodied in appropriate executive orders or rules, but nothing in this section restricts the Governor's authority to do so by orders issued at the time of the disaster emergency.
(e) In addition to any other powers conferred upon the Governor by law, the Governor may:
(1) Suspend the provisions of any regulatory statutes prescribing the procedures for conduct of state business, or the orders or rules of any state agency, if strict compliance with the provisions of any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency;
(2) Utilize all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the disaster emergency;
(3) Transfer the direction, personnel, or functions of state departments and agencies or units of state departments and agencies for the purpose of performing or facilitating emergency management;
(4) Subject to any applicable requirements for compensation under § 12-75-124, commandeer or utilize any private property if he or she finds this necessary to cope with the disaster emergency;
(5) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the Governor deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;
(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation;
(7)(A) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein.
(B) This chapter does not permit the Governor to prohibit members of the General Assembly from accessing the seat of government;
(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles; and
(9) Make provision for the availability and use of temporary emergency housing.
(f)(1) An executive order or proclamation issued to meet or mitigate dangers to the people and property of the state presented or threatened by a statewide state of disaster emergency related to public health under § 12-75-107(g):
(A) Shall be in effect for the remaining duration of the statewide state of disaster emergency related to public health; and
(B) Except as provided in subdivision (f)(3) of this section, shall be submitted to the Legislative Council for review.
(2)(A) If the Governor seeks to renew a statewide state of disaster emergency related to public health under § 12-75-

107(g), he or she may also request the renewal of an executive order or proclamation under subdivision (f)(1) of this section.
(B) If the Governor requests the renewal of more than one (1) executive order or proclamation under subdivision (f)(2)(A) of this section, the Legislative Council may consider each executive order or proclamation individually.
(C) If the Legislative Council does not deny the Governor's request to renew the executive order or proclamation by a majority vote of a quorum present prior to the expiration of the statewide state of disaster emergency related to public health, the executive order or proclamation shall be renewed for the same time period as the statewide state of disaster emergency related to public health.
(3)(A) If the Governor issues an executive order or proclamation to meet or mitigate dangers to the people and property of the state presented or threatened by a statewide state of disaster emergency related to public health after a statewide state of disaster emergency related to public health has been renewed under § 12-75-107(g)(3), the executive order or proclamation is subject to termination by the Legislative Council.
(B)(i) An executive order or proclamation issued under subdivision (f)(3)(A) of this section shall become effective immediately upon its issuance by the Governor and shall remain in effect unless the Legislative Council, by a majority vote of a quorum present, votes to terminate the executive order or proclamation.
(ii) If the Governor issues more than one (1) executive order or proclamation under subdivision (f)(3)(A) of this section, the Legislative Council may consider each executive order or proclamation individually.
(C) If the Legislative Council does not terminate an executive order or proclamation under this subsection, the executive order or proclamation shall expire when the statewide state of disaster emergency declared for public health purposes expires or is terminated.
(4)(A) The Legislative Council may meet at any time to perform its duties under this subsection, including without limitation during a regular session, fiscal session, or extraordinary session of the General Assembly.
(B) The duties of the Legislative Council under this subsection shall not be delegated to a subset of the membership of the Legislative Council, including without limitation a subcommittee of the Legislative Council.
(C) The Legislative Council may adopt rules concerning the performance of its duties under this section.

12-75-115. Disaster prevention generally.
(a)(1) In addition to disaster prevention measures as included in the state, local, and interjurisdictional emergency operations plans, the Governor shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters.
(2) At the Governor's direction, and pursuant to any other authority and competence state agencies have, including, but not limited to, those charged with responsibilities in flood plain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards shall make studies of disaster prevention-related matters.
(3) Studies under subdivision (a)(2) of this section shall be furnished to the Governor and the Division of Emergency Management as soon as possible after completion and shall concentrate on means of reducing or avoiding damage caused by possible disasters or the consequences of possible disasters.
(4) The Governor, from time to time, shall make recommendations to the General Assembly, local government, and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.
(b)(1) If the division believes, on the basis of the studies or other competent evidence, that an area is susceptible to a disaster of catastrophic proportions without adequate warning, that existing building standards and land use control in that area are inadequate and could add substantially to the magnitude of the disaster, and that changes in zoning regulations, other land use regulations, or building requirements are essential in order to further the purposes of this section, it shall specify the essential changes to the Governor.
(2) If the Governor, upon review of the recommendation, finds after public hearing that the changes are essential, he or she shall so recommend to the agencies or local governments with jurisdiction over the area and subject matter.
(3) If no action or insufficient action pursuant to the Governor's recommendations is taken within the time specified by the Governor, he or she shall so inform the General Assembly and request legislative action appropriate to mitigate the impact of disaster.
(c)(1) At the same time that the Governor makes his or her recommendations pursuant to subsection (b) of this section, the Governor may suspend the standard or control which he or she finds to be inadequate to protect the public safety and by rule place a new standard or control in effect.
(2) The new standard or control shall remain in effect until rejected by concurrent resolution of both houses of the General Assembly or amended by the Governor.
(3) During the time it is in effect, the standard or control contained in the Governor's rule shall be administered and given full effect by all relevant regulatory agencies of the state and local governments to which it applies.
(4) The Governor's action is subject to judicial review in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., but shall not be subject to temporary stay pending litigation.

12-75-116. State and local governmental entities -- Liaison officers.
(a)(1) It is the policy of this chapter that each department, commission, agency, or institution of state and local government actively and aggressively support the state offices of emergency management and local offices of emergency management to the end of providing the best possible preparation for response to or recovery from any emergency situation that may occur.
(2) In furtherance of the policy described in subdivision (a)(1) of this section, the head of each state department, commission, agency, or institution with an emergency management role or responsibility shall appoint a member or members of his or her staff as agency emergency

management liaison officer or officers to act on his or her behalf in ensuring the agency's capability to fulfill its role in emergency management activities and shall ensure that the Division of Emergency Management is notified of any change in the appointment.
(b) The agency emergency management liaison officer shall:
(1) Maintain close and continuous liaison with the division, as applicable;
(2) Prepare agency annexes to the state and, as applicable, local emergency operations plans which are compatible with this chapter and with guidance provided by the division;
(3) Report to the State Emergency Operations Center as required for any disaster training or exercises or emergency training or exercises;
(4) Maintain files of agency resources to include personnel, facilities, and equipment available for disaster operation;
(5) Ensure that the agency can respond promptly and cooperatively with other agencies in any disaster or major emergency situation under the overall management of the division;
(6) Advise, assist, and evaluate the capabilities of counterpart local or federal government agencies in preparing for and carrying out disaster operations;
(7) Designate personnel available for assignment to mobile support units and train such personnel in the tasks to be performed; and
(8) Perform other related functions necessary to carry out the purpose of this chapter.
(c) As conditions or situations may require or dictate, the Director of the Division of Emergency Management may request a state department, agency, or institution not currently participating in the emergency management liaison officer program to appoint an officer in accordance with this section.
(d) Nothing in subsections (a)-(c) of this section shall be interpreted as relieving or otherwise abridging the responsibility and authority of agency directors in carrying out disaster operations for which their agencies are solely responsible.

12-75-117. Interjurisdictional disaster planning and service areas.
(a)(1)(A) By executive order, the Governor may combine two (2) or more established local offices of emergency management as an interjurisdictional office of emergency management.
(B)(i) Before a combination under subdivision (a)(1)(A) of this section, the jurisdictions involved shall prepare for the Governor's approval a written mutual interjurisdictional agreement that specifies how and by whom the emergency management coordinator shall be appointed.
(ii) The interjurisdictional agreement shall also include specific provisions addressing the funding, administration, staff, and operational control of the interjurisdictional office of emergency management.
(C) The interjurisdictional office of emergency management shall meet the same minimum standards and requirements as a single-jurisdiction local office of emergency management in order to maintain eligibility for state and federal emergency management funding and program assistance.
(2) A finding of the Governor pursuant to this subsection shall be based on an assessment conducted by the Director of the Division of Emergency Management using one (1) or more factors related to the difficulty of maintaining an efficient, effective, and economical system for disaster and emergency preparedness, mitigation, response, and recovery such as:
(A) Small or sparse population;
(B) Limitations on public financial resources severe enough to make maintenance of a separate established local office of emergency management unreasonably burdensome;
(C) Unusual vulnerability to disasters and emergencies based on geographical, geological, hydrological, meteorological, or technological disaster potential; and
(D) Other relevant conditions or circumstances.
(b)(1) If the Governor finds that a vulnerable area lies only partly within this state and includes territory in another state or states and that it would be desirable to establish an interstate relationship, mutual aid, or an area organization for disaster, he or she shall take steps toward that end as may be desirable.
(2) If this action is taken with jurisdictions having enacted the Interstate Civil Defense and Disaster Compact, § 12-76-101 et seq., any resulting agreement or agreements may be considered supplemental agreements pursuant to Article VI of that compact.
(3)(A) If the other jurisdiction or jurisdictions with which the Governor proposes to cooperate pursuant to subdivisions (b)(1) and (2) of this section have not enacted that compact, then he or she may negotiate a special agreement with the jurisdiction or jurisdictions.
(B) Any agreement, if sufficient authority for the making thereof does not otherwise exist, becomes effective only after its text has been communicated to the General Assembly and neither house of the General Assembly has disapproved it by adjournment of the next ensuing session competent to consider it or within thirty (30) days of its submission, whichever is longer.

12-75-118. Local and interjurisdictional offices of emergency management and services.
(a)(1) Each political subdivision within this state shall be within the jurisdiction of and served by the Division of Emergency Management and by a local office of emergency management or interjurisdictional office of emergency management.
(2) A local office of emergency management or interjurisdictional office of emergency management shall be established as a public safety agency of its respective political subdivision or political subdivisions and shall be under the direction and control of the appropriate chief executive for the purposes of mitigation of, planning for, response to, and recovery from disaster and major emergency occurrences and for operation of public safety information networks.
(b)(1) Each county within the state and those municipalities specifically designated by the Governor shall establish, fund, and maintain an established local office of emergency management or, as necessary, make arrangements through an interjurisdictional agreement to receive emergency management.
(2) Unless a municipality has been specifically designated as a local office of emergency management, it shall receive

emergency management support from the county or counties where its corporate limits are situated.
(c)(1) The Governor shall determine if additional municipal local offices of emergency management or interjurisdictional offices of emergency management are required based on an assessment conducted by the Director of the Division of Emergency Management using one (1) or more of the factors enumerated in § 12-75-117(a).
(2) The division shall publish and keep current a list of municipalities required to have local offices of emergency management or interjurisdictional offices of emergency management under this subsection.
(d) The Governor may require a political subdivision to establish and maintain a local office of emergency management or an interjurisdictional office of emergency management jointly with one (1) or more contiguous political subdivisions if he or she finds that the establishment and maintenance of any agency or participation in an agency is made necessary by circumstances or conditions that make it unusually difficult to provide disaster or major emergency prevention, preparedness, response, or recovery services under other provisions of this chapter.
(e) Each political subdivision that does not have a local office of emergency management and has not made arrangements to secure or participate in the emergency management of an agency shall have a liaison officer designated to facilitate the cooperation and protection of that political subdivision in the work of disaster and major emergency prevention, preparedness, response, and recovery.
(f)(1) The chief executive of each political subdivision shall exercise comparable authority within his or her political subdivision, and within the limits of the Arkansas Constitution and laws of the state, as the Governor exercises over the state government during disasters and major emergencies. The chief executive shall ensure to the maximum extent possible, that his or her jurisdiction meets the minimum expected capability for disaster and emergency mitigation, planning, response, and recovery.
(2) The chief executive of a political subdivision shall notify the division of the manner in which the political subdivision is providing or securing disaster planning and emergency management, provide a staffing pattern for the local office of emergency management, identify the person who heads the local office of emergency management, and furnish additional information relating thereto as the division requires.
(g)(1) Each local office of emergency management and interjurisdictional office of emergency management shall prepare and keep current an emergency operations plan for its area.
(2)(A) The emergency operations plan and all annexes must be approved by the local office of emergency management of the political subdivision and receive concurrence of the chief executive of the political subdivision.
(B) The emergency operations plan shall then be submitted to the division for approval prior to implementation.
(h) The local office of emergency management or interjurisdictional office of emergency management, as the case may be, shall prepare a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster and major emergency chain of command. This statement shall be distributed to all appropriate officials in written form.
(i)(1)(A) The county judge of each county and the chief executive of those municipal jurisdictions specifically designated as established local offices of emergency management shall appoint an emergency management coordinator for their respective local offices of emergency management.
(B) The written mutual interjurisdictional agreement between the participating jurisdictions in an interjurisdictional office of emergency management, executed under § 12-75-117(a), shall govern the appointment of the emergency management coordinator of the interjurisdictional office of emergency management.
(C) The emergency management coordinator shall act for and on behalf of the appropriate chief executive to manage and coordinate the functions, duties, and activities of the established local office of emergency management.
(2) The emergency management coordinator and such supporting staff of an established local office of emergency management as may be employed in part, or in whole, by state and federal emergency management program funds, shall be responsible for meeting all standards and requirements stipulated for funding under the programs.
(3)(A) The director shall establish and periodically review criteria necessary to ensure compliance with minimum standards and requirements.
(B) Failure to meet or maintain minimum standards and requirements or noncompliance with any part of this chapter by an established local office of emergency management may result in a decision by the director to reduce, withhold, or terminate partial or full funding for any or all local offices of emergency management programs in which the political subdivision participates or for which it may be otherwise eligible.
(j)(1) Local offices of emergency management shall operate and maintain as a minimum an information systems link with the division.
(2)(A) When authorized by the chief executive of the political subdivision and properly staffed, the local office of emergency management may operate a public safety communications center for the purposes of coordination, dispatch, and information services for local government public safety agencies and private or volunteer agencies with an emergency management mission.
(B) The public safety communications center must be staffed by paid local office of emergency management public safety officers of the political subdivision and operate on a continuous basis if it is to serve as a law enforcement or fire dispatch and service center.
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12-75-119. Statewide mutual aid system.
(a)(1) All emergency jurisdictions shall participate in the statewide mutual aid system, except as provided in subdivision (a)(2) of this section.
(2)(A) An emergency jurisdiction may elect not to participate in the statewide mutual aid system.
(B) In order to make the election, the governing body of the emergency jurisdiction shall enact a resolution declaring that the emergency jurisdiction elects not to participate in the statewide mutual aid system.

(C) The chief executive officer of the governing body shall provide a copy of the resolution to the Division of Emergency Management within ten (10) days of the enactment of the resolution.
(b) Within its own emergency jurisdiction, a participating emergency jurisdiction shall:
(1) Identify potential problems and hazards that could affect the emergency jurisdiction using an identification system common to all participating emergency jurisdictions;
(2) Conduct joint planning, intelligence sharing, and threat assessment development with contiguous participating emergency jurisdictions;
(3) Conduct joint training exercises with contiguous participating emergency jurisdictions at least one (1) time every other year;
(4) Identify and inventory, at least annually, current services, equipment, supplies, personnel, and other resources related to planning, prevention, mitigation, and response and recovery activities of the participating emergency jurisdiction; and
(5) Adopt and implement an incident management system consistent with Homeland Security Presidential Directive-5, as it existed on January 1, 2005.
(c)(1) The chief executive officer of the governing body of a participating emergency jurisdiction or his or her designee may request assistance from another participating emergency jurisdiction:
(A) To prevent, mitigate, or respond and recover from a local emergency declared under § 12-75-108; or
(B) To conduct joint training exercises.
(2)(A) A request for assistance may be made verbally or in writing.
(B) Verbal requests shall be followed with written confirmation as soon as practical.
(3)(A) A request for assistance is not required to be reported to the division in advance of or concurrent with the request.
(B) However, a request for assistance shall be reported to the division in writing as soon as practical.
(d) A participating emergency jurisdiction's obligation to provide assistance to another participating emergency jurisdiction with the prevention, mitigation, and response and recovery activities related to a declared emergency or training exercises is subject to the following conditions:
(1) There must be a local emergency declared under § 12-75-108 or a plan to conduct training exercises;
(2) A responding participating emergency jurisdiction may withhold its resources to the extent necessary to provide reasonable protection and services for its own emergency jurisdiction;
(3)(A) An emergency responder from a participating emergency jurisdiction responding to a request for assistance from another participating emergency jurisdiction shall remain under the command control of his or her home jurisdiction, including use of medical protocols, standard operating procedures, and other protocols and procedures identified by the division.
(B) However, for the duration of the assistance, the emergency responder shall be under the operational control of the participating emergency jurisdiction requesting assistance in accordance with the incident management system of that participating emergency jurisdiction; and
(4)(A)(i) Equipment and supplies belonging to a participating emergency jurisdiction responding to a request for assistance from another participating emergency jurisdiction shall remain under the command control of the responding participating emergency jurisdiction.
(ii) However, for the duration of the assistance, the equipment and supplies shall be under the operational control of the participating emergency jurisdiction requesting assistance in accordance with the incident management system of that participating emergency jurisdiction.
(B) A participating emergency jurisdiction providing assistance may donate equipment, supplies, or any other kind of asset to another participating emergency jurisdiction.
(e) If an emergency responder holds a license, certificate, or other permit issued by a participating emergency jurisdiction or the state evidencing qualification in a professional, mechanical, or other skill and the assistance of the emergency responder is requested by a participating emergency jurisdiction, the emergency responder shall be deemed to be licensed, certified, or permitted in the participating emergency jurisdiction requesting assistance for the duration of the declared emergency or training exercises, subject to any limitations and conditions imposed by the chief executive officer of the governing body of the participating emergency jurisdiction receiving the assistance.
(f)(1)(A) A participating emergency jurisdiction receiving assistance under the statewide mutual aid system shall reimburse a participating emergency jurisdiction responding to a request for assistance for all expenses associated with providing the assistance other than regular salaries and benefits.
(B) A request for reimbursement shall be made in accordance with procedures developed by the Arkansas Homeland Security Advisory Group and adopted by the division as a rule under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.
(C) The division shall not provide reimbursement for expenses associated with training exercises except in accordance with applicable rules.
(2)(A)(i) If a participating emergency jurisdiction disagrees with another participating emergency jurisdiction regarding reimbursement, the participating emergency jurisdiction asserting the dispute shall notify in writing the chief executive officer of the governing body of the participating emergency jurisdiction with which the dispute exists.
(ii) The notification shall be sent by certified mail, return receipt requested.
(B)(i) The participating emergency jurisdictions involved in the dispute shall make every effort to resolve the dispute within thirty (30) days of receipt of the written notice by the noncomplaining participating emergency jurisdiction.
(ii) In the event that the dispute is not resolved within ninety (90) days of receipt of written notice of the dispute, either participating emergency jurisdiction may request binding arbitration.
(iii) Arbitration conducted under this subdivision (f)(2)(B) shall be conducted under the commercial arbitration rules of the American Arbitration Association, as in effect on January 1, 2005.
(g)(1) An emergency responder who assists a participating emergency jurisdiction that is not the emergency responder's home emergency jurisdiction and who sustains injury or

death in the course of, and arising out of, the emergency responder's employment is entitled to all applicable benefits normally available from the emergency responder's home emergency jurisdiction.
(2) An emergency responder may receive additional state benefits as provided by law for death in the line of duty.
(h)(1) All activities performed under this section are deemed to be governmental functions.
(2)(A) For the purposes of liability, an emergency responder acting under the operational control of a participating emergency jurisdiction requesting assistance is deemed to be an employee of the participating emergency jurisdiction requesting assistance and exercising operational control.
(B) Except in cases of willful misconduct, gross negligence, or bad faith, neither the participating emergency jurisdiction providing assistance nor its employees shall be liable for the death of or injury to persons or for damage to property when complying or attempting to comply with the request of a participating emergency jurisdiction for assistance under the statewide mutual aid system.
(i) This section shall not be construed to prohibit a participating emergency jurisdiction from entering into interjurisdictional agreements with one (1) or more other emergency jurisdictions or emergency services entities and shall not affect any other agreement to which an emergency jurisdiction may be a party.

12-75-120 [repealed]

12-75-121. Utilization of existing services and facilities.
(a) In carrying out the provisions of this chapter, the Governor and the chief executives or designees of the political subdivisions of the state are directed to utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state and of the political subdivisions thereof to the maximum extent practicable.
(b) The officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the Governor and to the emergency management organization of the state upon request.

12-75-122. Political activity prohibited.
An emergency management organization established under the authority of this chapter shall not:
(1) Participate in any form of political activity; or
(2) Be employed directly or indirectly for political purposes.

12-75-123. Appropriations and authority to accept services, gifts, grants, and loans.
(a) Each political subdivision may make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local office of emergency management.
(b)(1) If the federal government or any agency or officer of the federal government offers to the state, or through the state to any political subdivision, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of emergency management or disaster relief, the state, acting through the Governor, or the political subdivision, acting with the consent of the Governor and through its chief executive or governing body, may accept the offer.
(2) Upon such acceptance, the Governor of the state or chief executive or governing body of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.
(c)(1) Whenever any person, firm, or corporation shall offer to the state, or to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of emergency management, the state, acting through the Governor, or such political subdivision, acting through its chief executive or governing body, may accept such offer.
(2) Upon such acceptance, the Governor of the state, or chief executive or governing body of such political subdivision may authorize any officer of the state, or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state, or such political subdivision and subject to the terms of the offer.

12-75-124. Compensation for services and property.
(a)(1) Each person within this state shall conduct himself or herself and keep and manage his or her affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public to successfully meet disaster emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster emergency.
(2) This chapter neither increases nor decreases these obligations but recognizes their existence under the Arkansas Constitution and statutes of this state and the common law.
(3) Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized in this chapter are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered his or her services or property without compensation.
(b) The state, any agency of the state, and any political subdivision shall not compensate any personal services except pursuant to statute or local law or ordinance.
(c) Compensation for property shall be only if the property was commandeered or otherwise used in coping with a disaster emergency and its use or destruction was ordered by the Governor or a member of the disaster emergency forces of this state.
(d) Any person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall file a claim therefor with the Arkansas State Claims Commission in the form and manner the commission provides.
(e) Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed between the claimant and the commission, the amount of compensation shall be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this state.

(f) Nothing in this section applies to or authorizes compensation for the destruction or damaging of standing timber or other property in order to provide a fire break or to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

12-75-125. Donation of property or equipment -- Immunity.
(a) Any person owning or controlling real estate or other premises who voluntarily and with or without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending, mock, or practice attack shall, together with his or her successors in interest, if any, not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises for loss of or damage to the property of such person.
(b) The immunity in subsection (a) of this section shall extend to those persons who have voluntarily and with or without compensation granted the use of automotive vehicles, boats or similar equipment, or aircraft for use under the circumstances described in subsection (a) of this section.

12-75-126. Public safety officers.
(a) No person shall be employed or associated in any capacity in any emergency management organization established under this chapter who:
(1) Advocates or has advocated a change by force or violence in the constitutional form of the United States Government or of this state or the overthrow of any government in the United States by force or violence; or
(2) Has pleaded guilty or nolo contendere to or been found guilty of any subversive act against the United States or is under indictment or information charging any subversive act against the United States.
(b) The Director of the Division of Emergency Management and persons he or she may designate from the state and local offices of emergency management staffing patterns shall be sworn public safety officers as defined and limited by this chapter.
(c)(1) Before entering upon his or her duties, each person who is selected to serve as a public safety officer in an organization of emergency management shall take an oath in writing before a person authorized to administer oaths in this state.
(2) The oath required in subdivision (c)(1) of this section shall be substantially as follows:

"I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Arkansas, and that I will faithfully discharge the duties of the office of Public Safety Officer, upon which I am now about to enter."
(d)(1)(A) The director may determine what constitutes the Division of Emergency Management uniform for division personnel.
(B) The chief executive of a local office of emergency management may determine what constitutes a uniform for his or her jurisdiction.
(2) The uniform may include a badge or identification card, or both, of appropriate design and dimensions to identify local office of emergency management personnel as bona fide emergency management workers within their jurisdiction and division personnel as bona fide emergency workers for the state.
(e) Any person issued or provided a badge, identification, or uniform described in subsection (d) of this section shall wear, carry, or display it at such times and places as shall be designated or required by the chief executive of the local jurisdiction for local office of emergency management personnel and by the director for division personnel.

12-75-127 [repealed]

12-75-128. Emergency responders -- Immunities and exemptions.
(a) All functions under this chapter and all other activities relating to emergency management are declared to be governmental functions.
(b) No emergency responder, except in cases of willful misconduct, gross negligence, or bad faith, when complying with or reasonably attempting to comply with this chapter, or any other rule or regulation promulgated pursuant to the provisions of this section or pursuant to any ordinance relating to blackout or other precautionary measures enacted by any political subdivision of the state, shall be liable for the death of or injury to persons, or for damage to property, as a result of any such activity.
(c) The immunity in subsection (b) of this section shall extend to both emergency responders who are employees and to qualified emergency responders who are volunteers.
(d) The provisions of this section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled to under this chapter, under the Workers' Compensation Law, § 11-9-101 et seq., or under the retirement system laws of Arkansas nor the right of any such person to receive any benefits or compensation under any act of the United States Congress.
(e)(1) Any requirement for a license to practice any professional, mechanical, or other skill does not apply to any authorized emergency management worker who in the course of performing his or her duties as an emergency management worker practices the professional, mechanical, or other skill during an emergency.
(2)(A) Subdivision (e)(1) of this section does not apply to a license issued to a health practitioner, as defined in § 12-87-102.
(B) However, a health practitioner license issued by another state is recognized in this state to the extent provided under this chapter, the Interstate Civil Defense and Disaster Compact, § 12-76-101 et seq., the Uniform Emergency Volunteer Health Practitioners Act, § 12-87-101 et seq., and other laws of this state.
(f) Any emergency responder performing emergency preparedness services at any place in this state pursuant to agreements, compacts, or arrangements for mutual aid and assistance, to which the state or a political subdivision of the state is a party, shall possess the same powers, duties, immunities, and privileges he or she would ordinarily possess if performing his or her duties in the state, province, or political subdivision of the state or province in which normally employed or rendering services.

(g)(1) An emergency responder is not required by this chapter to possess a license, certificate, permit, or other official recognition for his or her expertise in a particular field or area of knowledge.
(2) However, to the extent that an emergency responder engages in a professional activity that by law requires a license, certificate, permit, or other official recognition in order to engage in the professional activity, the emergency responder shall possess the appropriate professional license, certificate, permit, or other official recognition.

12-75-129. Emergency responders -- Workers' compensation benefits.
(a)(1) A person appointed and regularly enrolled in an accredited emergency management organization and covered by this chapter is limited to the Workers' Compensation Law, § 11-9-101 et seq., for benefits payable for an injury to or death of the person, if:
(A) The person is regularly employed by a local government or the state; and
(B) The injury or death occurs while the person is:
(i) Actually engaged in emergency management duties either during training or during a period of emergency; and
(ii) Subject to the order or control of or pursuant to a request of and under the supervision and instruction of the:
(a) Governor;
(b) Division of Emergency Management; or
(c) Chief executive or the designated director of a department, county, or an accredited local government unit making use of emergency management volunteer workers.
(2) If a person described in subdivision (a)(1) of this section is a qualified emergency responder of the state or a local office of emergency management, then recovery is limited as provided in this section.
(b) The remedy provided in this section shall be the exclusive remedy as against the state and political subdivisions thereof.
(c)(1) For the purpose of workers' compensation coverage in cases of injury to or death of an individual, all duly qualified emergency responders shall be deemed local government or state employees and shall receive compensation, and their survivors shall receive death benefits in like manner as regular local government or state employees for injury or death arising out of and in the course of their activities as emergency responders.
(2) If an emergency responder is injured or killed while subject to the order or control of a local government, compensation and benefits shall be charged against the applicable local government's experience rate and paid from the appropriate state workers' compensation fund.
(3) If the emergency responder was under the order or control of a state agency when injured or killed, compensation and benefits shall be charged against the experience rate of the state agency who exercised order or control at the time of injury or death and paid from the appropriate state workers' compensation fund.
(d)(1) For the purpose of subsection (c) of this section, the weekly compensation benefits for such emergency responders who receive no monetary compensation for services rendered as such workers shall be calculated based upon the wages received from their regular or usual employments, the same as a regular local or state employee, with respect to injury, disability, or death.
(2) The reimbursement per day for approved out-of-pocket expenses incurred in response to an emergency situation, such as gasoline, oil, uniforms, required equipment, and other items is not considered monetary compensation for the volunteer emergency responder.
(e)(1) In the event that any person who is entitled to receive benefits through the application of subsection (c) of this section receives, in connection with the injury, disability, or death giving rise to such entitlement, benefits under an act of the United States Congress or federal program providing benefits for emergency responders or their survivors, then the benefits payable under this section shall be reduced to the extent of the benefits received under such other act or program.
(2) Any person who performs the duties of a member or trainee as an adjunct to his or her regular employment and who otherwise would be entitled to receive workers' compensation benefits for his or her injury, disability, or death, if injured in the performance of such duties, shall be deemed to have been injured, disabled, or killed in the course of his or her regular employment.
(f) An emergency responder shall be deemed duly registered and qualified when he or she is a member of and has on file in either a local office of emergency management or in the division the following information:
(1) Name and address;
(2) Date enrolled; and
(3) Class of service assigned.
(g) Payments and death and disability benefits as provided in this section shall be made from the Workers' Compensation Revolving Fund for state employees.

12-75-130. Call-up of retired law enforcement officers.
(a) In emergency situations the Governor, county sheriff, or municipal police chief may authorize and request retired law enforcement officers, including game wardens, to perform law enforcement functions.
(b) In such instances, the retirement benefits of such retired law enforcement officers shall not be interrupted, reduced, or otherwise adversely affected.

12-75-131. Disaster relief pay.
a)(1) The Division of Emergency Management is authorized to provide special compensation to certain employees for each full pay period of eighty (80) hours worked in a job which requires the provision of on-site emergency disaster relief services in cases of wartime, human-made, or natural disasters.
(2) This disaster relief pay covers employees who may be exposed to hazardous or disastrous conditions during the performance of their job duties.
(3)(A) The rate of pay will be five and one-half percent (5.5%) above the regular authorized pay or rate of pay.
(B) Payment will be controlled through personnel actions by the Director of the Division of Emergency Management.
(b) The rate of pay for individuals who work less than a full pay period of eighty (80) hours or transfer to other work areas not defined in this section, or both, will not receive any enhanced rate of pay for that or subsequent pay periods.

(c) A monthly report shall be made to the Legislative Council describing all payments made to employees under the provisions of this section.

12-75-132. Arkansas Homeland Security Advisory Group -- Created.
(a) There is created an advisory body to the Division of Emergency Management, to be known as the "Arkansas Homeland Security Advisory Group".
(b) The advisory group shall consist of representatives of federal, state, and local agencies and professional associations as determined by the Director of the Division of Emergency Management. The advisory group shall include, at a minimum, representatives of the following:
(1) Division of Emergency Management;
(2) The Arkansas Ambulance Association;
(3) Arkansas Association of Chiefs of Police;
(4) Arkansas Association of Fire Chiefs;
(5) Arkansas Citizen Corps Point of Contact;
(6) Division of Environmental Quality;
(7) Department of Health;
(8) Arkansas Emergency Management Association, Inc.;
(9) Arkansas Highway Police Division of the Arkansas Department of Transportation;
(10) Department of Agriculture;
(11) Arkansas Municipal League;
(12) National Guard;
(13) 61st Civil Support Team of the Arkansas National Guard;
(14) Arkansas Sheriffs' Association;
(15) Division of Arkansas State Police;
(16) County Judges Association of Arkansas;
(17) Centers for Disease Control and Prevention;
(18) Division of Information Systems;
(19) Federal Bureau of Investigation;
(20) Health Resources and Services Administration of the United States Department of Health and Human Services;
(21) United States Secret Service;
(22) United States Attorney for the Eastern District of Arkansas; and
(23) United States Attorney for the Western District of Arkansas.
(c) A representative of the Division of Emergency Management shall serve as chair of the advisory group.
(d) The advisory group shall develop and maintain comprehensive guidelines and procedures that address requirements for the following:
(1) Requesting and providing assistance through the statewide mutual aid system;
(2) Recordkeeping for all participating emergency jurisdictions;
(3) Reimbursement for assistance provided through the statewide mutual aid system; and
(4) Any other process necessary to implement the statewide mutual aid system.
(e) The advisory group shall meet as often as required to:
(1) Review the progress and status of statewide emergency programs;
(2) Assist in developing methods to track and evaluate activation of the statewide mutual aid system; and
(3) Examine issues facing emergency jurisdictions regarding the implementation and management of the statewide mutual aid system.
(f)(1) The advisory group shall prepare at least annually a report on the condition and effectiveness of the statewide mutual aid system and other emergency programs in the state.
(2) The report shall include recommendations with regard to correcting any deficiencies identified by the advisory group in the statewide mutual aid system.
(3) The advisory group shall submit the report annually to the director and to the House Committee on State Agencies and Governmental Affairs and the Senate Committee on State Agencies and Governmental Affairs.

12-75-133. Position transfer.
Upon approval of the Chief Fiscal Officer of the State, the Arkansas Department of Emergency Management may transfer positions between appropriations as may be required:
(1) If a disaster occurs that results in a presidential disaster proclamation; or
(2) When an employee occupies one (1) position that is to be paid from two (2) or more appropriations during a single fiscal year.

The Public Safety Act of 2019

Ark. Code Ann. § 12-10-301. Title

This subchapter shall be known and may be cited as the "Arkansas Public Safety Communications and Next Generation 911 Act of 2019". (amends the Arkansas Public Safety Communications Act of 1985)

Ark. Code Ann. § 12-10-302. Legislative findings, policy, and purpose

(a) It has been determined to be in the public interest to shorten the time and simplify the method required for a citizen to request and receive emergency aid.
(b) The provision of a single, primary three-digit emergency number through which fire suppression, rescue, disaster and major emergency, emergency medical, and law enforcement services may be quickly and efficiently obtained will provide a significant contribution to response by simplifying notification of these emergency service responders. A simplified means of procuring these emergency services will result in saving of life, a reduction in the destruction of property, quicker apprehension of criminals, and ultimately the saving of moneys.
(c) Establishment of a uniform emergency telephone number is a matter of concern to all citizens.
(d) The emergency number 911 has been made available at the national level for implementation throughout the United States and Canada.
(e) It is found and declared necessary to:
(1) Establish the National Emergency Number 911 (nine, one, one) as the primary emergency telephone number for use in participating political subdivisions of the State of Arkansas;
(2) Authorize each chief executive to direct establishment and operation of public safety answering points in their political subdivisions and to designate the location of a public safety answering point and agency which is to operate the center. As both are elected positions, a county judge must obtain concurrence of the county sheriff;
(3) Encourage the political subdivisions to implement public safety answering points; and
(4) Provide a method of funding for the political subdivisions, subject to the jurisdiction of the Arkansas 911 Board, which will allow them to implement, operate, and maintain a public safety answering point.

Ark. Code Ann. § 12-10-303. Definitions

As used in this subchapter:
(1) "Access line" means a communications line or device that has the capacity to access the public switched network;
(2) "Automatic location identification" means an enhanced 911 service capability that enables the automatic display of information defining the geographical location of the telephone used to place the 911 call;
(3) "Automatic number identification" means an enhanced 911 service capability that enables the automatic display of the ten-digit number used to place a 911 call from a wire line, wireless, voice over internet protocol, or any nontraditional phone service;
(4) "Basic 911 system" means a system by which the various emergency functions provided by public safety agencies within each political subdivision may be accessed utilizing the three-digit number 911, but no available options are included in the system;
(5) "Chief executive" means the Governor, county judges, mayors, city managers, or city administrators of incorporated places, and is synonymous with head of government, dependent on the level and form of government;
(6) "CMRS connection" means each account or number assigned to a CMRS customer;
(7)(A) "Commercial mobile radio service" or "CMRS" means commercial mobile service under §§ 3(33) and 332(d), Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993.
(B) "Commercial mobile radio service" or "CMRS" includes any wireless or two-way communication device that has the capability of connecting to a public safety answering point;
(8) "Dispatch center" means a public or private agency that dispatches public or private safety agencies but does not operate a public safety answering point;
(9) "Enhanced 911 network features" means those features of selective routing that have the capability of automatic number and location identification;
(10)(A) "Enhanced 911 system" means enhanced 911 service, which is a telephone exchange communications service consisting of telephone network features and public safety answering points designated by the chief executive that enables users of the public telephone system to access a public safety answering point by dialing the digits "911".
(B) The enhanced 911 system directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification;
(11)(A) "ESINet" means a managed internet protocol network that is used for emergency services communications that can be shared by all public safety agencies and that provides the internet protocol transport infrastructure upon which independent application platforms and core services can be deployed, including without limitation those services necessary for providing next generation 911 services.

(B) “ESINet” is the designation for the network, but not the services on the network;
(12) “Exchange access facilities” means all lines provided by the service supplier for the provision of local exchange service;
(13) “Geographic information system” means a system for capturing, storing, displaying, analyzing, and managing data and associated attributes which are spatially referenced;
(14) “Governing authority” means county quorum courts and governing bodies of municipalities;
(15) “Next generation 911” means a secure, internet protocol-based, open standards system, composed of hardware, software, data, and operation policies and procedures, that:
(A) Provides standardized interfaces from emergency call and message services to support emergency communications;
(B) Processes all types of emergency calls, including voice, text, data, and multimedia information;
(C) Acquires and integrates additional emergency call data useful to call routing and handling;
(D) Delivers the emergency calls, messages, and data to the appropriate public safety answering point and other appropriate emergency entities based on the location of the caller;
(E) Supports data, video, and other communications needs for coordinated incident response and management; and
(F) Interoperates with services and networks used by first responders to facilitate emergency response;
(16) “Nontraditional phone service” means any service that:
(A) Enables real-time voice communications from the user's location to customer premise equipment;
(B) Permits users to receive calls that originate on the public switched telephone network or to terminate calls to the public switched telephone network; and
(C) Has the capability of placing a 911 call;
(17) “Nontraditional phone service connection” means each account or number assigned to a nontraditional phone service customer;
(18)(A) “Operating agency” means the public safety agency authorized and designated by the chief executive of the political subdivision to operate a public safety answering point.
(B) Operating agencies are limited to offices of emergency services, fire departments, and law enforcement agencies of the political subdivisions;
(19) “Prepaid wireless telecommunications service” means a prepaid wireless calling service as defined in § 26-52-314;
(20) “Private safety agency” means any entity, except a public safety agency, providing emergency fire, ambulance, or emergency medical services;
(21) “Public safety agency” means an agency of the State of Arkansas or a functional division of a political subdivision that provides firefighting, rescue, natural, or human-caused disaster or major emergency response, law enforcement, and ambulance or emergency medical services;
(22) “Public safety answering point” means the location at which all 911 communications are initially answered that is operated on a twenty-four-hour basis by an operating agency and dispatches two (2) or more public safety agencies;
(23) “Public safety officers” means specified personnel of public safety agencies;
(24) “Readiness costs” means equipment and payroll costs associated with equipment, call takers, and dispatchers on standby waiting for 911 calls;
(25) “Selective routing” means the method employed to direct 911 calls to the appropriate public safety answering point based on the geographical location from which the call originated;
(26) “Service supplier” means any person, company, or corporation, public or private, providing exchange telephone service, nontraditional phone service, voice over internet protocol service, or CMRS service throughout the political subdivision;
(27) “Service user” means any person, company, corporation, business, association, or party not exempt from county or municipal taxes or utility franchise assessments that is provided landline telephone service, CMRS service, voice over internet protocol service, or any nontraditional phone service with the capability of placing a 911 call in the political subdivision;
(28) “Short message service” means a service typically provided by mobile carriers that sends short messages to an endpoint;
(29)(A) “Tariff rate” means the rate or rates billed by a service supplier as stated in the service supplier's tariffs, price lists, customer contracts, or other methods of publishing service offerings that represent the service supplier's recurring charges for exchange access facilities, exclusive of all:
(i) Taxes;
(ii) Fees;
(iii) Licenses; or
(iv) Similar charges whatsoever.
(B) The tariff rate per county may include extended service area charges only if an emergency telephone service charge has been levied in a county and a resolution of intent has been passed by a county's quorum court that defines tariff rate as being inclusive of extended service area charges;
(30) “Telecommunicator” means a person employed by a public safety answering point or an emergency medical dispatcher service provider, or both, who is qualified to answer incoming emergency telephone calls or provide for the appropriate emergency response, or both, either directly or through communication with the appropriate public safety answering point;
(31) “Voice over internet protocol connection” means each account or number assigned to a voice over internet protocol customer;
(32) “Voice over internet protocol service” means any service that:
(A) Enables real-time voice communications;
(B) Requires a broadband connection from the user's location;

(C) Requires internet protocol compatible customer premise equipment;
(D) Permits users to receive calls that originate on the public switched telephone network or to terminate calls to the public switched telephone network; and
(E) Has the capability of placing a 911 call; and
(33) "Wireless telecommunications service provider" means a provider of commercial mobile radio services:
(A) As defined in 47 U.S.C. § 332(b), as it existed on January 1, 2006, including all broadband personal communications services, wireless radio telephone services, geographic-area-specialized and enhanced-specialized mobile radio services, and incumbent, wide area, specialized mobile radio licensees that offer real-time, two-way voice service interconnected with the public switched telephone network; and
(B) That either:
(i) Is doing business in the State of Arkansas; or
(ii) May connect with a public safety answering point.

Ark. Code Ann. § 12-10-304. Public safety answering points

(a)(1) The chief executive of a political subdivision may:
(A) Designate the public safety answering point of another political subdivision to serve his or her political subdivision as a public safety answering point only; or
(B) Retain a dispatch center to serve both public safety answering point and dispatch functions.
(2) A designation under subdivision (a)(1) of this section shall be in the form of a written mutual aid agreement between the political subdivisions, with approval from the Arkansas 911 Board, and shall include that a fair share of funding shall be contributed by the political subdivision being served to the political subdivision operating the public safety answering point.
(3) Moneys necessary for the fair share of funding may be generated:
(A) As authorized in this subchapter;
(B) By funds received by or allocated by the Arkansas 911 Board; and
(C) By any other funds available to the political subdivision unless the use of the funds for 911 services is prohibited by law.
(4) If a designation under subdivision (a)(1) of this section and a mutual aid agreement are made, an additional public safety answering point shall not be created without termination of the mutual aid agreement.
(b) A public safety answering point established under this subchapter may serve the jurisdiction of more than one (1) public agency of the political subdivision or, through mutual aid agreements, more than one (1) political subdivision.
(c) This subchapter does not prohibit or discourage in any manner the formation of multiagency or multijurisdictional public safety answering points.
(d) The chief executive of a political subdivision may contract with a private entity to operate a public safety answering point under rules established by the Arkansas 911 Board.

Ark. Code Ann. § 12-10-305. Arkansas 911 Board

(a)(1) There is created the Arkansas 911 Board to consist of the following members:
(A) The Director of the Division of Emergency Management or his or her designee;
(B) The Auditor of State or his or her designee;
(C) The State Geographic Information Officer of the Arkansas Geographic Information Systems Office or his or her designee;
(D) One (1) county judge appointed by the Association of Arkansas Counties;
(E) One (1) mayor appointed by the Arkansas Municipal League;
(F) One (1) 911 coordinator, director, or telecommunicator appointed by the Speaker of the House of Representatives;
(G) One (1) 911 coordinator, director, or telecommunicator appointed by the President Pro Tempore of the Senate;
(H) One (1) police chief appointed by the Arkansas Association of Chiefs of Police; and
(I) The following members to be appointed by the Governor:
(i) One (1) Emergency Management Director of a political subdivision;
(ii) One (1) sheriff;
(iii) One (1) representative of emergency medical services; and
(iv) One (1) fire chief.
(2)(A) The members under subdivisions (a)(1)(G), (a)(1)(I)(i), (a)(1)(I)(iii), and (a)(1)(I)(iv) of this section shall serve a term of two (2) years.
(B) The members under subdivisions (a)(1)(D), (a)(1)(E), (a)(1)(F), (a)(1)(H), and (a)(1)(I)(ii) of this section shall serve a term of four (4) years.
(3) Vacancies shall be filled in the same manner as the original appointment and each member shall serve until a qualified successor is appointed.
(4) The Director of the Division of Emergency Management shall serve as the chair and call the first meeting no later than thirty (30) days after the appointment of the majority of the members of the Arkansas 911 Board.
(5) The Arkansas 911 Board shall establish bylaws.
(b) The duties of the Arkansas 911 Board shall include without limitation:
(1)(A) Developing a plan no later than January 1, 2022, to provide funding for no more than seventy-seven (77) public safety answering points to operate in the state.

(B) If the Arkansas 911 Board determines it is necessary, the Arkansas 911 Board may provide funding for more or fewer than seventy-seven (77) public safety answering points with a two-thirds (2/3) vote of the Arkansas 911 Board;
(2) Within one (1) year of July 24, 2019, promulgating rules necessary to:
(A) Establish guidelines for Arkansas public safety answering points in accordance with the Association of Public-Safety Communications Officials International, Inc. and the National Emergency Number Association;
(B) Create standards for public safety answering point interoperability between counties and states; and
(C) Assist all public safety answering points in implementing a next generation 911 system in the State of Arkansas;
(3) Receiving and reviewing all 911 certifications submitted by public safety answering points in accordance with standards developed by the Arkansas 911 Board;
(4) Auditing any money expended by a political subdivision for the operation of a service supplier;
(5)(A) Providing an annual report to the Governor and the Legislative Council.
(B) The report shall include a review and assessment of sustainability and the feasibility of further reduction of the required number of public safety answering points resulting from the standardization of operational processes and training and the implementation of next generation 911 service;
(6) Establishing and maintaining an interest-bearing account into which shall be deposited revenues transferred to the Arkansas 911 Board from the Arkansas Public Safety Trust Fund and the Arkansas Emergency Telephone Services Board; and
(7) Managing and disbursing the funds from the interest-bearing account described in subdivision (b)(6) of this section.
(c) The Arkansas 911 Board shall have all powers necessary to fulfill the duties of the Arkansas 911 Board, including without limitation power to enter, assign, and assume contracts.
(d) The Arkansas 911 Board shall disburse from the interest-bearing account described in subdivision (b)(6) of this section in the following manner:
(1)(A) Not less than eighty-three and seventy-five hundredths percent (83.75%) of the total monthly revenues shall be distributed on a population basis to each political subdivision operating a public safety answering point that has the capability of receiving 911 calls on dedicated 911 trunk lines for expenses incurred for answering, routing, and proper disposition of 911 calls, including payroll costs, readiness costs, and training costs associated with wireless, voice over internet protocol, and nontraditional 911 calls.
(B) In determining the population basis for distribution of funds, the Arkansas 911 Board shall determine, based on the latest federal decennial census, the population of:
(i) All unincorporated areas of counties operating a public safety answering point that has the capacity to receive commercial mobile radio service, voice over internet protocol service, or nontraditional 911 calls on dedicated 911 trunk lines; and
(ii) All incorporated areas of counties operating a public safety answering point that has the capacity to receive commercial mobile radio service, voice over protocol service, or nontraditional 911 calls on dedicated 911 trunk lines;
(2)(A) Not more than fifteen percent (15%) of the total monthly revenues may be used:
(i) To purchase a statewide infrastructure for next generation 911, including without limitation ESINet, connectivity costs, and next generation 911 components and equipment; and
(ii) By public safety answering points for upgrading, purchasing, programming, installing, and maintaining necessary data, basic 911 geographic information system mapping, hardware, and software, including any network elements required to supply enhanced 911 phase II cellular, voice over internet protocol, and other nontraditional telephone services, in connection with compliance with Federal Communications Commission requirements.
(B)(i) A political subdivision operating a public safety answering point shall present invoices to the Arkansas 911 Board in connection with any request for reimbursement under subdivision (d)(2)(A)(ii) of this section.
(ii) A request for reimbursement shall be approved by a majority vote of the Arkansas 911 Board.
(C) Any invoices presented to the Arkansas 911 Board for reimbursements of costs not described by subdivision (d)(2)(B)(ii) of this section may be approved only by a majority vote of the Arkansas 911 Board;
(3) Not more than one and twenty-five hundredths (1.25%) of the monthly revenues may be used by the Arkansas 911 Board to compensate the independent auditor and for administrative expenses, staff, and consulting services; and
(4) All interest received shall be disbursed as prescribed in this subsection.
(e) The Arkansas 911 Board may:
(1) Withhold for no less than six (6) months any additional revenue generated by the public safety charge and the prepaid public safety charge under this subchapter; and
(2) Calculate a monthly payment amount based on the prior calendar year certifications and remit that amount to the eligible governing body on a monthly basis.
(f)(1) All cities and counties operating a public safety answering point shall submit to the Arkansas 911 Board no later than April 1 of each calendar year the following information in the form of a report:
(A) An explanation and accounting of the funds received by the city or county and expenditures of the funds received for the previous calendar year, along with a copy of the budget for the previous calendar year and a copy of the year-end appropriation and expenditure analysis of any participating or supporting counties, cities, or agencies;
(B) Any information requested by the Arkansas 911 Board concerning local public safety answering point operations, facilities, equipment, personnel, network, interoperability, call volume, telecommunicator training, and supervisor training;
(C) A copy of all documents reflecting 911 funds received for the previous calendar year, including without limitation wireless, wireline, general revenues, sales taxes, and other sources used by the city or county for 911 services; and

(D) The name of each telecommunicator, the telecommunicator's date of hire, the telecommunicator's date of termination, if applicable, and approved courses by the Arkansas Commission on Law Enforcement Standards and Training completed by the telecommunicator, including without limitation “train the trainer” courses.
(2) The chief executive for each public safety answering point shall gather the information necessary for the report under subdivision (f)(1) of this section and provide the report and a copy of the certification of the public safety answering point to the Arkansas 911 Board and to the county intergovernmental coordination council for use in conducting the annual review of services under § 14-27-104.
(g) The Arkansas 911 Board may withhold all or part of the disbursement to a public safety answering point if the report of an auditor or the Arkansas 911 Board otherwise confirms that the public safety answering point improperly used funds disbursed by the Arkansas 911 Board for purposes other than those authorized by § 12-10-323.
(h)(1) Each county shall complete locatable address conversion of 911 physical address, assignment, and mapping within the county and certify to the Arkansas 911 Board that the locatable address conversion is completed no later than the last business day of February 2020.
(2) Failure to comply with this section may result in the Arkansas 911 Board's withholding funds from the public safety answering point.
(i) The Arkansas 911 Board may contract for 911 services in the implementation of the next generation 911.
(j)(1) The Director of the Division of Emergency Management may:
(A) Enter, assign, assume, and execute contract extensions that would otherwise lapse during the transition period between the Arkansas Emergency Telephone Services Board and the Arkansas 911 Board; and
(B) Work with the Arkansas Emergency Telephone Services Board to ensure a smooth transition between the Arkansas Emergency Telephone Services Board and the Arkansas 911 Board.
(2) The Arkansas Emergency Telephone Services Board shall continue to receive and disburse funds and continue operations up to the last business day of December 2019.
(3) All emergency telephone service charges collected but not yet disbursed, other moneys, and any remaining balance in the interest-bearing account of the Arkansas Emergency Telephone Services Board shall be transferred to the Arkansas 911 Board by the last business day of December 2019.

Ark. Code Ann. § 12-10-306. Communications Personnel

The staff and supervisors of a public safety answering point or dispatch center shall be:
(1)(A) Paid employees, either sworn officers or civilians, of the operating agency designated by the chief executive of the political subdivisions.
(B) Personnel other than law enforcement or fire officers shall be considered public safety officers for the purposes of public safety communications or engaging by contract with the operating agency;
(2) Required to submit to criminal background checks for security clearances before accessing files available through the Arkansas Crime Information Center if the public safety answering point or dispatch center is charged with information service functions for criminal justice agencies of the political subdivision;
(3) Trained in operation of 911 system equipment and other training as necessary to operate a public safety answering point or dispatch center, or both;
(4) Subject to the authority of the affiliated agency and the chief executive of the political subdivision through the public safety answering point or dispatch center; and
(5)(A) Required to immediately release without the consent or approval of any supervisor or other entity any information in their custody or control to a prosecuting attorney if requested by a subpoena issued by a prosecutor, grand jury, or any court for use in the prosecution or the investigation of any criminal or suspected criminal activity.
(B) The staff or supervisor of a public safety answering point or dispatch center, or both, an operating agency, and the service supplier are not liable in any civil action as a result of complying with a subpoena as required in subdivision (5)(A) of this section.

Ark. Code. Ann. § 12-10-307. [Repealed]

Ark. Code Ann. § 12-10-308. Response to requests for emergency response outside jurisdiction

a) A public safety answering point shall be capable of transmitting requests for law enforcement, firefighting, disaster, or major emergency response, emergency medical or ambulance services, or other emergency services to a public or private agency where the services are available to the political subdivision in the public safety answering point's jurisdiction.
(b) A public safety answering point or dispatch center, or both, which receives a request for emergency response outside its jurisdiction shall promptly forward the request to the public safety answering point or public safety agency responsible for that geographical area.
(c) Any emergency unit dispatched to a location outside its jurisdiction in response to such a request shall render service to the requesting party until relieved by the public safety agency responsible for that geographical area.
(d) Political subdivisions may enter into mutual aid agreements to carry out the provisions of this section.

Ark. Code Ann. § 12-10-309. Requests from the hearing and speech impaired.

Each public safety answering point or dispatch center shall be equipped with a system for the processing of requests from the hearing and speech impaired for emergency response.

Ark. Code Ann. § 12-10-310. Record of Calls

(a) The public safety answering point shall develop and maintain a system for recording 911 calls received at the public safety answering point.
(b) A dispatch center shall develop and maintain a system that has been approved by the Arkansas 911 Board for recording 911 calls transferred from a public safety answering point.
(c) All information contained with or attached to a 911 call, including without limitation short message service, text, video, and photographs, shall be retained.
(d) The records shall be retained for a period of at least one hundred eighty (180) days from the date of the call and shall include the following information:
(1) Date and time the call was received;
(2) The nature of the problem; and
(3) Action taken by the telecommunicators.

§ 12-10-311, 12-10-312 [Repealed]

Ark. Code Ann. § 12-10-313. Restrictions and nonemergency telephone number

(a) The telephone number 911 is restricted to emergency calls that may result in dispatch of the appropriate response service for fire suppression and rescue, emergency medical services or ambulance, hazardous material incidents, disaster or major emergency occurrences, and law enforcement activities.
(b) Any person calling the telephone number 911 for the purpose of making a false alarm or complaint or reporting false information that could result in the emergency dispatch of any public safety agency upon conviction is guilty of a Class A misdemeanor.
(c) Each public safety answering point and dispatch center will maintain a published nonemergency telephone number, and nonemergency calls should be received on that number.
(d) Transfers of calls from 911 trunks to nonemergency numbers are discouraged because that ties up 911 trunks and may interfere with true emergency calls.

Ark. Code Ann. § 12-10-314. Connection of network to automatic alarms, etc., prohibited

No person shall connect to a service supplier's network any automatic alarm or other automatic alerting devices which cause the number 911 to be automatically dialed and provide a prerecorded message in order to directly access the services which may be obtained through a public safety answering point.

Ark. Code. Ann. § 12-10-315 [Repealed]

Ark. Code Ann. § 12-10-316. Public safety answering points—Access to information

(a) A public safety answering point and dispatch center designated by the chief executive of the political subdivision may be considered an element in the communications network connecting state, county, and local authorities to a centralized state depository of information in order to serve the public safety and criminal justice community.
(b) A public safety answering point and dispatch center is restricted in that it may access files in the centralized state depository of information only for the purpose of providing information to:
(1) An end user as authorized by state law; and
(2) An authorized recipient of the contents of those files, in the absence of serving as an information service agency.
(c) The designation of the public safety answering point as an information provider to an authorized recipient and an agency of a political subdivision shall be made by the chief executive of each political subdivision.

Ark. Code Ann. § 12-10-317. Public safety answering point—Operation—Rights, duties, liabilities, etc., of service providers

(a)(1) Each service provider shall forward to any public safety answering point equipped for enhanced 911 service the telephone number and street address of any telephone used to place a 911 call.
(2) Subscriber information provided in accordance with this subsection shall be used only for the purpose of responding to requests for emergency service response from public or private safety agencies, for the investigation of false or intentionally misleading reports of incidents requiring emergency service response, or for other lawful purposes.
(3) A service provider, agents of a service provider, political subdivision, or officials or employees of a political subdivision are not liable to any person who uses the enhanced 911 service established under this subchapter for release of the information specified in this section or for failure of equipment or procedure in connection with enhanced 911 service or basic 911 service.
(b)(1) The public safety answering point and dispatch center shall be notified in advance by an authorized service provider representative of any routine maintenance work to be performed that may affect the 911 system's reliability or capacity.
(2) The work shall be performed during the public safety answering point's off-peak hours.

Ark. Code Ann. § 12-10-318. Emergency telephone service charges—Imposition—Liability

(a)(1)(A) When so authorized by a majority of the persons voting within the political subdivision in accordance with the law, the governing authority of each political subdivision may levy an emergency telephone service charge in the amount assessed by the political subdivision on a per-access-line basis as of January 1, 1997, or the amount up to five percent (5%) of the tariff rate, except that any political subdivision with a population of less than twenty-seven thousand five hundred (27,500) according to the 1990 Federal Decennial Census may, by a majority vote of the electors voting on the issue, levy an emergency telephone charge in an amount assessed by the political subdivision on a per-access-line basis as of January 1, 1997, or an amount up to twelve percent (12%) of the tariff rate.

(B) The governing authority of a political subdivision that has been authorized under subdivision (a)(1)(A) of this section to levy an emergency telephone service charge in an amount up to twelve percent (12%) of the tariff rate may decrease the percentage rate to not less than four percent (4%) of the tariff rate for those telephone service users that are served by a telephone company with fewer than two hundred (200) access lines in this state as of the date of the election conducted under subdivision (a)(1)(A) of this section.

(2) Upon its own initiative, the governing authority of the political subdivision may call such a special election to be held in accordance with § 7-11-201 et seq.

(b)(1)(A) There is levied a commercial mobile radio service public safety charge in an amount of one dollar and thirty cents ($1.30) per month per commercial mobile radio service connection that has a place of primary use within the State of Arkansas.

(B) There is levied a voice over internet protocol public safety charge in an amount of one dollar and thirty cents ($1.30) per month per voice over internet protocol connection that has a place of primary use within the State of Arkansas.

(C) There is levied a nontraditional telephone public safety charge in an amount of one dollar and thirty cents ($1.30) per month per nontraditional service connection that has a place of primary use within the State of Arkansas.

(D) The service charge levied in subdivision (b)(1)(A) of this section and collected by commercial mobile radio service providers that provide mobile telecommunications services as defined by the Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, as in effect on January 1, 2001,[1] shall be collected pursuant to the Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252.[2]

(2)(A) The service charges collected under subdivisions (b)(1)(A)-(C) of this section shall be remitted to the Arkansas Emergency Telephone Services Board within thirty (30) days after the end of the month in which the fees are collected.

(B)(i) After September 30, 2019, the public safety charge collected under subdivisions (b)(1)(A)-(C) of this section shall be remitted to the Arkansas Public Safety Trust Fund.

(ii) Due to the confidential and proprietary nature of the information submitted by commercial mobile radio service providers, the information shall be retained by the independent auditor in confidence, shall be subject to review only by the Auditor of State, and shall not be subject to the Freedom of Information Act of 1967, § 25-19-101 et seq., nor released to any third party.

(iii) The information collected by the independent auditor shall be released only in aggregate amounts that do not identify or allow identification of numbers of subscribers or revenues attributable to an individual commercial mobile radio service provider.

(c) In order to provide additional funding for the public safety answering point, the political subdivision may receive and appropriate any federal, state, county, or municipal funds, as well as funds from a private source, and may expend the funds for the purposes of this subchapter.

(d) The public safety charge shall:

(1) Appear as a single line item on a subscriber's bill;

(2) Not be assessed upon more than two hundred (200):

(A) Exchange access facilities per person per location; or

(B) Voice over internet protocol connections per person per location; and

(3) Not be subject to any state or local tax or franchisee fee.

(e)(1) To verify the accuracy of the monthly remittances that a service supplier makes to the Arkansas Public Safety Trust Fund, a service supplier shall provide copies of required federal filings at least biannually to the Division of Emergency Management.

(2) No later than thirty (30) days following the filing of the required federal telecommunications reports, a service supplier shall provide a copy of the federal filing, and the Federal Communications Commission Form 477 or its equivalent, including the number of access lines used by the service supplier in the state.

(3)(A) Due to the proprietary nature of the information in the reports required in subdivision (e)(1) of this section which, if disclosed, would provide a competitive advantage for other service suppliers, the reports shall be confidential and only subject to review by:

(i) The Director of the Division of Emergency Management; and

(ii) The designee of the Arkansas 911 Board.

(B) However, audit reports may be released that contain only aggregate numbers and do not disclose proprietary information including numbers or revenue attributable to an individual service supplier.

(f) This section does not prohibit a service supplier from billing, collecting, or retaining an additional amount to reimburse the service supplier for enabling and providing 911, enhanced 911, and next generation 911 services and capabilities in the network and for the facilities and associated equipment.

(g)(1) To avoid an overlap in the assessment of the old and new charges for subscribers for every service supplier obligated to pay the public safety charge, a transition to the payment of the public safety charge shall occur.

(2)(A) The assessment of charges before October 1, 2019, shall continue through September 30, 2019, and be remitted in the same manner to the same entity as previously prescribed under this section before October 1, 2019.
(B) Any unpaid assessments for the time period up to and including September 30, 2019, shall remain due and payable under the terms and processes that are or were in place at the time.
(3) Beginning on October 1, 2019, a service supplier is subject to the public safety charges assessed as described in this section.
(4)(A) After October 1, 2019, a service supplier shall remit all assessments of the public safety charge for a calendar month by the fifteenth business day of the following month to the Arkansas Public Safety Trust Fund.
(B) The Arkansas Public Safety Trust Fund shall provide disbursements as provided by § 19-5-1152.
(h) To provide additional funding for the public safety answering point, the political subdivision may:
(1) Receive and appropriate any federal, state, county, or municipal funds and funds from a private source; and
(2) Expend the funds described in subdivision (h)(1) of this section to operate and maintain a public safety answering point.
(i)(1) Notwithstanding any other provision of the law, in no event shall any commercial mobile radio, voice over internet protocol service, or nontraditional service provider, or its officers, employees, assigns, or agents be liable for civil damages or criminal liability in connection with the development, design, installation, operation, maintenance, performance, or provision of a 911 service.
(2) Nor shall any commercial mobile radio, voice over internet protocol, or nontraditional service provider, its officers, employees, assigns, or agents be liable for civil damages or be criminally liable in connection with the release of subscriber information to any governmental entity as required under the provisions of this subchapter.

Ark. Code. Ann. §§12-10-319, 12-10-320. [Repealed]

Ark. Code Ann. § 12-10-321. Public safety answering points– Bonds
(a) The governing authority of the political subdivision shall have power to incur debt and issue bonds with approval from the Arkansas 911 Board for 911 systems and public safety answering point implementation and future major capital items.
(b) The bonds shall be negotiable instruments and shall be solely the obligations of each political subdivision and not of the State of Arkansas.
(c) The bonds and income thereof shall be exempt from all taxation in the State of Arkansas.
(d) The bonds shall not be general obligations but shall be special obligations payable from all or a specified portion of the income revenues and receipts of the political subdivision and designated by the political subdivision to be dedicated for the local 911 system and public safety answering point.
(e)(1) The bonds shall be authorized and issued by ordinance of the governing authority of each political subdivision.
(2) The bonds shall:
(A) Be of such series as the ordinance provides;
(B) Mature on such date or dates not exceeding thirty (30) years from date of the bonds as the ordinance provides;
(C) Bear interest at such rate or rates as the ordinance provides;
(D) Be in such denominations as the ordinance provides;
(E) Be in such form either coupon or fully registered without coupon as the ordinance provides;
(F) Carry such registration and exchangeability privileges as the ordinance provides;
(G) Be payable in such medium of payment and at such place or places within or without the state as the ordinance provides;
(H) Be subject to such terms of redemption as the ordinance provides;
(I) Be sold at public or private sale as the ordinance provides; and
(J) Be entitled to such priorities on the income, revenues, and receipts generated by the emergency telephone service charge as the ordinance provides.
(f) The ordinance may provide for the execution of a trust indenture or other agreement with a bank or trust company located within or without the state to set forth the undertakings of the political subdivision.
(g) The ordinance or such agreement may include provisions for the custody and investment of the proceeds of the bonds and for the deposits and handling of income, revenues, and receipts for the purpose of payment and security of the bonds and for other purposes.
(h) The Arkansas 911 Board may cooperate and contract with the Arkansas Development Finance Authority to provide for the payment of the principal of, premium if any, interest on, and trustee's and paying agent's fees in connection with bonds issued to finance the acquisition, construction, and operation of the next generation 911 infrastructure for the purposes of establishing a statewide ESINet as required by this subchapter with the review of the General Assembly.

Ark. Code Ann. § 12-10-322. Direct access to 911 services required for multiline telephone systems
(a) A covered multiline telephone system shall allow, as a default setting, any station equipped with dialing facilities to directly initiate a 911 call without requiring a user to dial any other digit, code, prefix, suffix, or trunk access code.
(b) A business service user that owns or controls a multiline telephone system or an equivalent system that uses voice over internet protocol enabled service and provides outbound dialing capacity or access shall configure the multiline telephone

system or equivalent system to allow a person initiating a 911 call on the multiline telephone system to directly access 911 service by dialing the digits "911" without an additional digit, code, prefix, suffix, or trunk access code.
(c) A public or private entity that installs or operates a multiline telephone system shall ensure that the multiline telephone system is connected to allow a person initiating a 911 call on the multiline telephone system to directly access 911 service by dialing the digits "911" without an additional digit, code, prefix, suffix, or trunk access code.

Ark. Code Ann. § 12-10-323. Authorized expenditures of revenues

(a)(1) Revenue generated under §§ 12-10-318 and 12-10-326 and transferred from the Arkansas Emergency Telephone Services Board or the Arkansas Public Safety Trust Fund to the Arkansas 911 Board shall be used only for reasonably necessary costs that enhance, operate, and maintain 911 service in the State of Arkansas under the direction of the Arkansas 911 Board.
(2) Reasonably necessary costs shall be determined by the Arkansas 911 Board and include the following:
(A) The engineering, installation, and recurring costs necessary to implement, operate, and maintain a 911 telephone system;
(B) The costs necessary for forwarding and transfer capabilities of calls from the public safety answering point to dispatch centers or to other public safety answering points;
(C) Engineering, construction, lease, or purchase costs to lease, purchase, build, remodel, or refurbish a public safety answering point and for necessary emergency and uninterruptable power supplies for the public safety answering point;
(D) Personnel costs, including salary and benefits, of each position charged with supervision and operation of the public safety answering point and system;
(E) Purchase, lease, operation, and maintenance of consoles, telephone and communications equipment owned or operated by the political subdivisions and physically located within and for the use of the public safety answering point, and radio or microwave towers and equipment with lines that terminate in the public safety answering point;
(F) Purchase, lease, operation, and maintenance of computers, data processing equipment, associated equipment, and leased audio or data lines assigned to and operated by the public safety answering point for the purposes of coordinating or forwarding calls, dispatch, or recordkeeping of 911 calls;
(G) Supplies, equipment, public safety answering point personnel training, vehicles, and vehicle maintenance, if such items are solely and directly related to and incurred by the political subdivision in mapping, addressing, and readdressing for the operation of the public safety answering point; and
(H) Training costs and all costs related to training under this subchapter.

(3) This subsection does not authorize a political subdivision to purchase emergency response vehicles, law enforcement vehicles, or other political subdivision vehicles from such funds.
(b) Expenditure of revenue distributed by the Arkansas 911 Board for purposes not identified in this section is prohibited.
(c) Failure to comply with this section may result in the Arkansas 911 Board's withholding funds from the public safety answering point's quarterly funding distribution.
(d) Appropriations of funds from any source other than §§ 12-10-318, 12-10-321, and 12-10-326 may be expended for any purpose and may supplement the authorized expenditures of this section and may fund other activities of the public safety answering point not associated with the provision of emergency services.

Ark. Code Ann. § 12-10-324. Response to 911 calls—Entry of structures

When responding to a 911 emergency call received at a public safety answering point, public safety officers of public safety agencies may use reasonable and necessary means to enter any dwelling, dwelling unit, or other structure without the express permission of the owner when:
(1) The dwelling or structure is believed to be the geographical location of the telephone used to place the 911 emergency call as determined by an automatic locator or number identifier; and
(2) Only after reasonable efforts have been made to arouse and alert any inhabitants or occupants of their presence and the officers have reason to believe that circumstances exist which pose a clear threat to the health of any person or they have reason to believe there may be a person in need of emergency medical attention present in the dwelling or structure who is unable to respond to their efforts.

Ark. Code Ann. § 12-10-325. Training Standards

(a)(1) A public safety agency, a public safety answering point, or a dispatch center may provide training opportunities for public safety answering point and dispatch center personnel through the Division of Law Enforcement Standards and Training and the Arkansas Law Enforcement Training Academy.
(2) The division shall develop training standards for telecommunicators, dispatchers, supervisors, and instructors in Arkansas in consultation with the Association of Public-Safety Communications Officials International, Inc., and the Arkansas 911 Board and submit the training standards to the Arkansas Commission on Law Enforcement Standards and Training for approval.
(3)(A) Training for instructors may include without limitation instructor development, course development, leadership development, and other appropriate 911 instructor training.
(B) Training for telecommunicators, dispatchers, and supervisors may include without limitation:
(i) Call taking;
(ii) Customer service;

(iii) Stress management;
(iv) Mapping;
(v) Call processing;
(vi) Telecommunication and radio equipment training;
(vii) Training with devices for the deaf;
(viii) Autism;
(ix) National Incident Management System training;
(x) Incident Command System training;
(xi) National Center for Missing and Exploited Children training;
(xii) National Emergency Number Association training;
(xiii) Association of Public-Safety Communications Officials International, Inc., training; and
(xiv) Other appropriate 911 dispatcher and supervisor training.
(4) An entity that provides training under subdivision (a)(1) of this section shall:
(A) Retain training records created under this section; and
(B) Deliver an annual report to the Arkansas 911 Board of training provided by the entity to verify the dispatcher and supervisor training reported as completed by each public safety answering point annually under § 12-10-318.
(b)(1) A private safety agency may attend training or receive instruction at the invitation of the division.
(2) The division may assess a fee on a private safety agency invited to attend training or receive instruction under this subsection to reimburse the division for costs associated with the training or instruction.
(c)(1) All public safety answering points shall have at least sixty percent (60%) of telecommunicators working in the public safety answering point trained.
(2) All telecommunicators working at a public safety answering point who have worked as a telecommunicator for one (1) year or longer shall be trained.

Ark. Code Ann. § 12-10-326. Prepaid wireless public safety charge–Defintions
a) As used in this section:
(1) "Consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction;
(2) "Occurring in this state" means a retail transaction that is:
(A) Conducted in person by a consumer at a business location of a seller in this state;
(B) Treated as occurring in this state for purposes of the gross receipts tax provided under § 26-52-521(b); or
(C) Taxable under § 26-53-106;
(3) "Prepaid wireless public safety charge" means the charge for prepaid wireless telecommunications service that is required to be collected by a seller from a consumer under subsection (b) of this section;
(4)(A) "Prepaid wireless service" means any prepaid wireless service sold to consumers in the state.
(B) "Prepaid wireless service" includes without limitation:
(i) Prepaid wireless cards;
(ii) Telephones or other devices that are loaded with prepaid wireless minutes; and
(iii) Any transaction that reloads a prepaid wireless card or a telephone or other device with prepaid wireless minutes;
(5) "Provider" means a person that provides prepaid wireless telecommunications service under a license issued by the Federal Communications Commission;
(6)(A) "Retail transaction" means each purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.
(B)(i) "Retail transaction" includes a separate purchase of prepaid wireless telecommunications service that is paid contemporaneously with another purchase of prepaid wireless telecommunications service if separately stated on an invoice, receipt, or similar document provided by the seller to the consumer at the time of sale.
(ii) "Retail transaction" includes a recharge as defined in § 26-52-314 of prepaid wireless telecommunications service;
(7) "Seller" means a person who sells prepaid wireless telecommunications service to another person; and
(8) "Wireless telecommunications service" means a commercial mobile radio service as defined under § 12-10-303.
(b)(1) For each retail transaction occurring in this state, a seller of prepaid wireless services shall collect from the consumer a public safety charge equal to ten percent (10%) of the value of the prepaid wireless service.
(2)(A) The amount of the prepaid wireless public safety charge shall be stated separately on an invoice, receipt, or similar document that is provided to the consumer at the time of sale by the seller or otherwise disclosed to the consumer.
(B) If the amount of the prepaid wireless public safety charge is stated separately on an invoice, receipt, or similar document provided to the consumer at the time of sale by the seller, the amount of the prepaid wireless public safety charge shall not be included in the base for measuring any tax, fee, surcharge, or other charge that is imposed by the state, a political subdivision of the state, or an intergovernmental agency.
(C)(i) To ensure there is no overlap of the E911 charge previously assessed under this section before October 1, 2019, and the new public safety charge assessed under subdivision (b)(1) of this section, a seller shall continue to collect the public safety charge in effect one (1) day before October 1, 2019, through September 30, 2019.
(ii) The funds collected through September 30, 2019, shall be remitted according to the same terms and process as previously remitted under this section before October 1, 2019.

(D) On and after October 1, 2019, a seller shall begin collecting the public safety charge under subdivision (b)(1) of this section and shall remit the funds as prescribed in subsection (c) of this section.
(c)(1) A seller shall electronically report and pay one hundred percent (100%) of the prepaid wireless public safety charge plus any penalties and interest due to the Secretary of the Department of Finance and Administration in the same manner and at the same time as the gross receipts tax under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.
(2) A seller that meets the prompt payment requirements of § 26-52-503 may deduct and retain two percent (2%) of the prepaid wireless public safety charge.
(d)(1) The Arkansas Tax Procedure Act, § 26-18-101 et seq., applies to a prepaid wireless public safety charge.
(2) If the Department of Finance and Administration becomes aware of any seller who is not collecting and remitting the public safety charge, the department shall provide notice of the requirements under this section and the associated penalties for failure to pay the charge.
(e) The department shall pay all remitted prepaid wireless public safety funds to the Arkansas Public Safety Trust Fund on or before the fifteenth business day of December 2019 and on or before the fifteenth business day of each month thereafter.
(f) A provider or seller is not liable for damages to a person resulting from or incurred in connection with:
(1) Providing or failing to provide 911 service;
(2) Identifying or failing to identify the telephone number, address, location, or name associated with a person or device that is accessing or attempting to access 911 service; or
(3) Providing lawful assistance to a federal, state, or local investigator or law enforcement officer conducting a lawful investigation or other law enforcement activity.
(g) A provider or seller is not liable for civil damages or criminal liability in connection with:
(1) The development, design, installation, operation, maintenance, performance, or provision of 911 service; or
(2) The release of subscriber information to a governmental entity as required by this subchapter.
(h)(1) The prepaid wireless public safety charge imposed by this section shall be the only E911 funding obligation imposed for prepaid wireless telecommunications service in this state.
(2) Except for the prepaid wireless public safety charge imposed under this section, no other tax, fee, surcharge, or other charge shall be imposed upon prepaid wireless telecommunication services by the state, a political subdivision of the state, or an intergovernmental agency for the purpose of implementing and supporting emergency telephone services.

Ark. Code Ann. § 12-10-327. Restriction on creation of public safety answering point

A new public safety answering point shall not be established unless the new public safety answering point is established as a result of:
(1) Consolidation with an existing public safety answering point; or
(2) Replacement of an existing public safety answering point.

Ark. Code Ann. § 12-10-328. 911 addressing authority—Data maintenance

(a) A chief executive shall designate a 911 addressing authority that shall create and maintain street centerline and address point data in a geographic information system format.
(b) The street centerline and address point data created under subsection (a) of this section shall:
(1) Be compatible with the standard database requirements and best practices developed by the Arkansas Geographic Information Systems Office as part of the Arkansas Master Address Program; and
(2) Be transmitted to the office by a method and with a frequency agreed upon by the office and the 911 addressing authority designated under subsection (a) of this section.

Ark. Code Ann. § 12-10-329. Fire protection district map—Information maintenance

<Text of section added by Acts of 2021, Act 382, § 1, eff. July 28, 2021. See, also, section 12-10-329 added by Acts of 2021, Act 505, § 2, eff. July 28, 2021.>
(a) Each fire protection district shall maintain an accurate fire protection district map that is certified by the:
(1) Mayor or other qualified representative of the city or town in which the fire protection district is located; or
(2) County judge or county fire coordinator of the county in which the fire protection district is located.
(b) The fire protection district map created under subsection (a) of this section shall be:
(1) Compatible with the guidelines and standards under § 12-10-305;
(2) Transmitted to the Arkansas Geographic Information Systems Office:
(A) Annually; and
(B) Upon changes to the fire protection district map by a method agreed upon by the office and the fire protection district; and
(3) Maintained by the office to assist the Arkansas 911 Board in carrying out the duties of the board under § 12-10-305.
(c) The board shall incorporate the fire protection district maps under this section into next generation 911 no later than January 1, 2022.

Ark. Code Ann. § 12-10-329. Telephone cardiopulmonary resuscitation—Definition–Rules

<Text of section added by Acts of 2021, Act 505, § 2, eff. July 28, 2021. See, also, section 12-10-329 added by Acts of 2021, Act 382, § 1, eff. July 28, 2021.>

(a) As used in this section, “telephone cardiopulmonary resuscitation” means the delivery of compression or ventilation instructions to callers who are reporting suspected cases of out-of-hospital cardiac arrest.
(b) The staff and supervisors of a public safety answering point or dispatch center shall be trained in telephone cardiopulmonary resuscitation if the public safety answering point or dispatch center offers pre-arrival instructions for emergency medical conditions.
(c) The training required in subsection (b) of this section shall:
(1) Use protocols and scripts based on evidence-based and nationally recognized guidelines for telephone cardiopulmonary resuscitation; and
(2) Include without limitation:
(A) Recognition protocols for out-of-hospital cardiac arrest;
(B) Compression-only cardiopulmonary resuscitation instructions; and
(C) Continuing education.
(d)(1) A caller may decline to receive instruction on telephone cardiopulmonary resuscitation.
(2) If a caller declines instruction under subdivision (d)(1) of this section, the staff and supervisors of a public safety answering point or dispatch center are not required to provide the instruction.
(e) The Division of Law Enforcement Standards and Training may assess a fee on a private safety agency invited to attend training or receive instruction under this section to reimburse the division for costs associated with the training or instruction.\

AG Opinion No. 2013-147: This opinion addressed who has the authority to release 911 recordings when there are multiple “public safety answering points” (PSAP) that fall within the definition of “911 public safety communication centers.” Specifically, the question asked was, “must all requests for release of 911 recordings be authorized by the Director of Emergency and 911 Services, [who is] an employee of the County Judge, or does each individual PSAP, particularly the Sheriff, have the authority to release such information? The Attorney General opined, “the release of 911 recordings is within the authority of the head of each agency (or his or her designee) that operates a 911 public safety communications center in the…County.” The operating agency is the relevant agency for the FOIA, which is within the purview of the 911 Center since it is responsible for the retention and recording of the 911 calls. The county judge, nor the director of emergency services is charged with this duty. The administrator of the 911 center or her designee has the authority to release 911 recordings in compliance with the FOIA.

CHAPTER 11
Benefits

MISCELLANEOUS BENEFITS

12-15-202. Eligibility to carry concealed handgun.

(a) A certified law enforcement officer, auxiliary law enforcement officer, employee of a local detention facility, prosecuting attorney, deputy prosecuting attorney designated by the prosecuting attorney, or emergency medical technician may carry a concealed handgun at any time if the certified law enforcement officer, auxiliary law enforcement officer, employee of a local detention facility, prosecuting attorney, deputy prosecuting attorney designated by the prosecuting attorney, or emergency medical technician:
(1) Is presently:
(A) Employed by a public law enforcement department, law enforcement office, law enforcement agency, local detention facility, or prosecuting attorney;
(B) Holding the office of prosecuting attorney; or
(C) Working as an emergency medical technician;
(2) Is not subject to any disciplinary action that suspends his or her authority as a certified law enforcement officer, auxiliary law enforcement officer, employee of a local detention facility, prosecuting attorney, deputy prosecuting attorney designated by the prosecuting attorney, or emergency medical technician;
(3) Is carrying a badge or appropriate written photographic identification issued by the public law enforcement department, law enforcement office, law enforcement agency, local detention facility, prosecuting attorney, or state licensing agency identifying him or her as a certified law enforcement officer, auxiliary law enforcement officer, employee of a local detention facility, prosecuting attorney, deputy prosecuting attorney designated by the prosecuting attorney, or emergency medical technician;
(4) Is not otherwise prohibited under federal law;
(5) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
(6) Has fingerprint impressions on file with the Division of Arkansas State Police automated fingerprint identification system.
(b)
(1) A concealed handgun may be carried by any retired law enforcement officer or retired auxiliary law enforcement officer acting as a retired auxiliary law enforcement officer who:
(A) Retired in good standing from service with a public law enforcement department, office, or agency for reasons other than mental disability;
(B) Immediately before retirement was a certified law enforcement officer authorized by a public law enforcement department, office, or agency to carry a firearm in the course and scope of his or her duties;
(C) Is carrying appropriate written photographic identification issued by a public law enforcement department, office, or agency identifying him or her as a retired and former certified law enforcement officer;
(D) Is not otherwise prohibited under federal law from receiving or possessing a firearm;
(E) Has fingerprint impressions on file with the system together with written authorization for state and national level criminal history record screening;
(F) During the most recent twelve-month period has met, at the expense of the retired law enforcement officer, the standards of this state for training and qualification for active law enforcement officers to carry firearms;
(G) Before his or her retirement, worked or was employed as a law enforcement officer or acted as an auxiliary law enforcement officer for an aggregate of ten (10) years or more; and
(H) Is not under the influence of or consuming alcohol or another intoxicating or hallucinatory drug or substance.
(2)
(A) The chief law enforcement officer of the city or county shall keep a record of all retired law enforcement officers authorized to carry a concealed handgun in his or her jurisdiction and shall revoke any authorization for good cause shown.
(B) The Director of the Division of Arkansas State Police shall keep a record of all retired Department of Arkansas State Police or Division of Arkansas State Police officers authorized to carry a concealed handgun in the state and shall revoke any authorization for good cause shown.
(3)(A) A concealed handgun may be carried by a retired prosecuting attorney or a retired deputy prosecuting attorney designated by the prosecuting attorney who:
(i) Retired in good standing from service with a prosecuting attorney's office for reasons other than mental disability;
(ii) Immediately before retirement was authorized to carry a firearm in the course and scope of his or her duties;
(iii) Is carrying appropriate written photographic identification issued by a prosecuting attorney's office, identifying him or her as a retired prosecuting attorney or a retired deputy prosecuting attorney designated by the prosecuting attorney;
(iv) Is not otherwise prohibited under federal law from receiving or possessing a firearm;
(v) Has fingerprint impressions on file with the system together with written authorization for state and national level criminal history record screening;
(vi) During the most recent twelve-month period has met the statutory requirements of § 16-21-147(b)(4);
(vii) Before his or her retirement, worked or was employed as a prosecuting attorney or as a deputy prosecuting attorney for an aggregate of ten (10) years or more; and
(viii) Is not under the influence of or consuming alcohol or another intoxicating or hallucinatory drug or substance.
(B) A prosecuting attorney shall keep a record of all retired prosecuting attorneys and retired deputy prosecuting attorneys designated by the prosecuting attorney authorized to carry a concealed handgun in his or her jurisdiction and may revoke any authorization only for good cause shown and not for an arbitrary or capricious reason.
(c)(1)(A) A firearms instructor certified by the Arkansas Commission on Law Enforcement Standards and Training who is employed by any law enforcement agency in this state may certify or recertify that a retired law enforcement officer has met the training and qualification requirements for

certification set by the commission for active law enforcement officers to carry firearms.
(B) A retired law enforcement officer shall pay the expenses for meeting the training and qualification requirements described in subdivision (c)(1)(A) of this section.
(2) A firearms instructor who certifies or recertifies that a retired law enforcement officer has met the training and qualification requirements for certification set by the commission for active law enforcement officers to carry firearms under subdivision (c)(1)(A) of this section shall complete and submit any required paperwork to the commission.
(d) A certified or retired law enforcement officer, active or retired auxiliary law enforcement officer, active or retired prosecuting attorney, active or retired deputy prosecuting attorney designated by the prosecuting attorney, current or former district court judge, circuit court judge, Court of Appeals judge, or Supreme Court justice, or emergency medical technician carrying a concealed handgun under this section is not subject to the prohibitions and limitations of § 5-73-306.
(e)(1) Any presently employed certified law enforcement officer authorized by another state to carry a concealed handgun shall be entitled to the same privilege while in this state, but subject to the same restrictions of this section, provided that the state which has authorized the officer to carry a concealed handgun extends the same privilege to presently employed Arkansas-certified law enforcement officers.
(2) The director shall make a determination as to which states extend the privilege to carry a concealed handgun to presently employed Arkansas-certified law enforcement officers and shall then determine which states' officers' authority to carry concealed handguns will be recognized in Arkansas.
(f) A concealed handgun may be carried by a current or former district court judge, circuit court judge, Court of Appeals judge, or Supreme Court justice who:
(1) Is not otherwise prohibited under federal law from receiving or possessing a firearm; and
(2) Is not under the influence of or consuming alcohol or another intoxicating or hallucinatory drug or substance.
(g) An emergency medical technician may only carry a concealed handgun under this section if during the most recent twelve-month period he or she has met at his or her expense the standards of this state for training and qualification for active law enforcement officers to carry firearms.

Title 21 Chapter 5 Subchapter 7, Death Benefits.
As used in this subchapter:
(1) "Child" or "children" means any natural child, adopted child, or stepchild who is eligible under § 21-5-707;
(2) "Coroner" means a coroner or a deputy coroner who is engaged in official duty at a crime scene or death location;
(3) "Covered public employee" means a police officer, firefighter, state highway employee, state correction employee, Division of Community Correction employee, jailer, qualified emergency services worker, wildlife enforcement officer, emergency medical technician, Arkansas Forestry Commission employee, commissioned law enforcement personnel, member of the Arkansas National Guard on state active duty, or emergency response personnel of the Department of Parks, Heritage, and Tourism;
(4) "Division of Community Correction employee" means any employee of the Division of Community Correction who is subject to injury through contact with parolees, probationers, or center residents;
(5) "Emergency medical technician" means emergency medical services personnel as defined in § 20-13-202;
(6) "Firefighter" means any member of a fire department or firefighting unit of any city of the first class or city of the second class, or any town, or any unincorporated rural area of this state who actively engages in the fighting of fires on either a regular or voluntary basis, or any instructor of the Arkansas Fire Training Academy, or any member of the firefighting organization of the Arkansas National Guard Robinson Maneuver Training Center or of the Arkansas National Guard Fort Chaffee Maneuver Training Center;
(7) "Jailer" means an employee of a city, town, or county who, while engaged in official duty as a detention or transport officer, is subject to injury through contact with inmates, detainees, parolees, or probationers;
(8) "Police officer" means:
(A) Any law enforcement officer engaged in official duty who is a member of any regular or auxiliary police force on a full-time or part-time basis, the Division of Arkansas State Police, or any member of the law enforcement organization of the Arkansas National Guard Robinson Maneuver Training Center or of the Arkansas National Guard Fort Chaffee Maneuver Training Center;
(B) A sheriff or deputy sheriff of a county who is engaged in official duty; or
(C) A constable or night marshal of a town of this state engaged in official duty;
(9) "Qualified emergency services worker" means a state, local, volunteer, and other emergency responder as defined in § 12-75-103;
(10) "State correction employee" means an employee of the Division of Correction or the Arkansas Correctional School District who is subject to injury through contact with inmates or parolees of the Division of Correction;
(11) "State highway employee" means an employee of the Arkansas Department of Transportation who is physically present on a roadway, bridge, or right-of-way of the state highway system or other public transportation facility and who is:
(A) Actively engaged in highway maintenance, construction, traffic operations, or the official duties of his or her employment; or
(B) Supervising, reviewing, evaluating, or inspecting highway maintenance, construction, or traffic operations; and
(12) "Wildlife enforcement officer" means an employee of the Arkansas State Game and Fish Commission who actively engages, on a full-time or part-time basis, in the enforcement of the boating safety laws and regulations enacted for the protection of game, fish, furbearing animals, and other wildlife of the State of Arkansas.

21-5-705. Payment of claim to designated beneficiaries or survivors of certain specified public employees killed in the line of duty – Funds.

(a) The state shall pay the additional sum of one hundred fifty thousand dollars ($150,000) to the designated beneficiary, surviving spouse, or surviving children under twenty-two (22) years of age of a:
(1) Police officer, wildlife enforcement officer, commissioned law enforcement officer or emergency response employee of the State Parks Division of the Department of Parks and Tourism, Department of Community Correction employee, employee of the Department of Correction, jailer, or coroner whose death occurred:
(A) After January 1, 2003; and
(B) Either:
(i) In the official line of duty as the result of a criminal or negligent action of another person or persons or as the result of the engagement in exceptionally hazardous duty; or
(ii) In the line of duty while the officer or employee was performing emergency medical activities;
(2) Firefighter, emergency medical technician, or employee of the Arkansas Forestry Commission killed after July 1, 1987, while responding to, engaging in, or returning from a fire, a rescue incident, a hazardous material or bomb incident, an emergency medical activity, or simulated training thereof; and
(3) (A) (i) Firefighter killed in the line of duty after January 1, 2012, including death from leukemia, lymphoma, mesothelioma, and multiple myeloma and cancer of the brain, digestive tract, urinary tract, liver, skin, breast, cervix, thyroid, prostate, testicle, or a cancer that has been found by research and statistics to show higher instances of occurrence in firefighters than in the general population, if he or she was exposed to a known carcinogen as determined by the Department of Health with consideration to the findings of the International Agency for Research on Cancer while in the official line of duty.
(ii) Subdivision (a)(3)(A)(i) of this section does not include a firefighter who was diagnosed with cancer prior to the start of firefighter service.
(B) A death benefit under subdivision (a)(3)(A) of this section shall be limited to:
(i) A maximum of one hundred fifty thousand dollars ($150,000) per individual death, including educational benefits provided in § 6-82-501 et seq.; and
(ii) A firefighter who is under sixty-eight (68) years of age.
(C)(i) The Firefighter Benefit Review Panel is created for the purpose of making recommendations to the Arkansas State Claims Commission regarding determinations of death benefits under subdivision (a)(3)(A) of this section for deaths associated with cancer.
(ii) The panel shall consist of the following seven (7) individuals to be appointed by the Governor:
(a) One (1) licensed oncologist;
(b)(1) Two (2) firefighters paid by the state, a county, or a municipality.

(2) One (1) firefighter under subdivision (a)(3)(C)(ii)(b)(1) of this section shall be appointed from a list of names submitted by the Arkansas Professional Fire Fighters Association;
(c)(1) Two (2) volunteer firefighters.
(2) One (1) firefighter under subdivision (a)(3)(C)(ii)(c)(1) of this section shall be appointed from a list of names submitted by the Arkansas State Firefighters Association;
(d) One (1) fire chief who may be appointed from a list of names submitted by the Arkansas Association of Fire Chiefs; and
(e) One (1) citizen with experience in either cancer and healthcare professions or firefighter relations.
(iii)(a) Panel members shall serve a term of four (4) years.
(b) In the event of a vacancy in the membership of the panel, the Governor shall appoint a person meeting the applicable eligibility requirements of the vacated position to fill the vacancy for the remainder of the unexpired term.
(iv)(a) The panel shall hold at least one (1) regular meeting in each calendar year at a time and place determined by the panel.
(b) Special meetings may be called at the discretion of the chair selected under subdivision (a)(3)(C)(v) of this section.
(v) The panel shall select a chair and vice chair during the first annual meeting of each four-year term.
(vi) Four (4) members of the panel shall constitute a quorum to transact business.
(vii) The members of the panel may receive expense reimbursement in accordance with § 25-16-901 et seq.
(viii) The panel shall:
(a) Render advisory opinions and reports concerning research and statistics that show higher instances of cancer among firefighters;
(b) Review claims for death benefits of firefighters who have died of cancer; and
(c) Make recommendations to the Arkansas State Claims Commission on death benefit awards under subdivision (a)(3)(A) of this section.
(D) This section:
(i) Shall not be applied to any other benefits granted by the state, a county, a city, or a municipality; and
(ii) Does not grant a cause of action against the state, a county, a city, or a municipality.
(b) In addition to the benefits provided for in subsection (a) of this section, the state shall pay the additional sum of twenty-five thousand dollars ($25,000) to the designated beneficiary, surviving spouse, or surviving children under the age of twenty-two (22) of any police officer, wildlife enforcement officer of the Arkansas State Game and Fish Commission, commissioned law enforcement officer of the State Parks Division of the Department of Parks and Tourism, Department of Community Correction employee, or employee of the Department of Correction:
(1) Who was wearing a bulletproof vest approved by the Director of the Department of Arkansas State Police; and
(2) Whose death occurred:
(A) After July 1, 1989; and
(B) In the official line of duty as the result of a criminal action of another person or persons.
(c)(1) Except as provided in subdivision (c)(2) of this section, the benefits shall be paid totally from state funds appropriated for these benefits. The funds shall not be reimbursed by a transfer or charging the funds against any state funds allocated for turnback to cities or counties or distributed to any other state department agency fund account other than the Arkansas State Claims Commission fund accounts and the Miscellaneous Revolving Fund Account.
(2)(A) Seventy-five thousand dollars ($75,000) of the one hundred fifty thousand dollars ($150,000) provided in

subdivision (c)(1) of this section shall be paid by the appropriate state department agency fund account.
(B) The appropriate state department agency shall transfer the necessary funds to the Arkansas State Claims Commission fund accounts for payment.
(d) The additional benefits provided in this section shall be paid to the designated beneficiary, surviving spouse, surviving children, or surviving parents in three (3) equal annual payments, the first of which shall be paid in July of the next fiscal year after the date of the original order of the Arkansas State Claims Commission establishing entitlement to additional payments and annually thereafter.
(e) Determination of eligibility for the additional payments provided in this section shall be made by the Arkansas State Claims Commission in accordance with Arkansas State Claims Commission rules and procedures.

12-15-302. Award of pistol upon retirement or death of a county sheriff or deputy county sheriff.
(a) When a deputy county sheriff retires from service or dies while still employed with the county sheriff's department, in recognition of and appreciation for the service of the retiring or deceased deputy county sheriff, the county sheriff may award the pistol carried by the deputy county sheriff at the time of his or her death or retirement from service to:
(1) The deputy county sheriff; or
(2) The deputy county sheriff's spouse if the spouse is eligible under applicable state and federal laws to possess a firearm.
(b)
(1) A county sheriff may retain his or her pistol he or she carried at the time of his or her retirement from service.
(2) If the county sheriff dies while he or she is still in office, his or her spouse may receive or retain the pistol carried by the county sheriff at the time of his or her death if the spouse is eligible under applicable state and federal laws to possess a firearm.

12-6-601. Confidentiality of certain law enforcement records – Definitions
(a) As used in this section:
(1) "Access a record" means to view a photograph or video recording or to listen to an audio recording;
(2) "Custodian of the record" means a person identified by the governmental entity that possesses the record and is responsible for safeguarding and providing access to the record;
(3) "Death of a law enforcement officer" means all acts or events that caused or otherwise relate to the death of a law enforcement officer who was acting in the course of his or her official duties, including any related acts or events immediately preceding or subsequent to the acts or events that caused or otherwise relate to the death;
(4) "Family member" means a spouse, biological or adopted child, parent, or sibling of the deceased law enforcement officer;
(5) "Law enforcement officer" means a person vested by law with a duty to maintain public order and to make arrests for offenses;
(6)
(A) "Notice" means that from all the facts and circumstances known to the person at the time, the person has reason to know that the facts and circumstances exist.
(B) Notice may be communicated in person or through other means, including without limitation, by telephone, telegraph, teletype, telecopier, facsimile, or other form of wire or wireless communication, or by mail or private carrier; and
(7) "Record" means a photograph, video recording, or audio recording, including any audio or video footage captured on a body-worn camera or a dashboard camera.
(b)
(1) A record that depicts or records the death of a law enforcement officer is confidential and exempt from disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.
(2)
(A) However, a family member of the deceased law enforcement officer may access a record described in subdivision (b)(1) of this section.
(B) A minor child of a deceased law enforcement officer who is at least fourteen (14) years of age may access a record described in subdivision (b)(1) of this section if the parent or guardian of the child:
(i) Provides written consent to the custodian of the record to permit the child to access a record; and
(ii) Is present to provide supervision over the child as he or she accesses a record.
(c)
(1) The custodian of a record shall not permit a person not authorized under this section to copy, disseminate, reproduce, transmit, or access a record described in subdivision (b)(1) of this section.
(2) The access to a record described in subdivision (b)(1) of this section or other handling of a record described in subdivision (b)(1) of this section shall be under the direct supervision of the custodian of the record.
(3) A person or persons designated as the custodian of a record who knowingly violates this section upon conviction is guilty of a Class D felony.
(d) (1) (A) A person or entity may petition a circuit court in the county where a record described in subdivision (b)(1) of this section is physically located in order to obtain access to the record.
(B) At a hearing held on a petition filed with the circuit court under subdivision (d)(1)(A) of this section seeking access to a record described in subdivision (b)(1) of this section, any review of a record described in subdivision (b)(1) of this section shall be conducted in camera.
(2) Upon a showing of good cause, a circuit court may issue an order authorizing a person or entity under subdivision (d)(1) of this section to access a record described in subdivision (b)(1) of this section and may prescribe restrictions or stipulations pertaining to the access of the record that the circuit court deems appropriate, including whether to allow for the copying or public disclosure of a record described in subdivision (b)(1) of this section.
(3) In determining good cause under subdivision (d)(2) of this section, the circuit court shall consider the following factors, along with other factors that the circuit court may deem relevant:
(A) Whether access to the record described in subdivision (b)(1) of this section is necessary for the public evaluation of

a law enforcement officer's conduct during the performance of his or her official duties;
(B) Whether there is a compelling public interest in the disclosure of the record;
(C) The seriousness of the intrusion into the privacy of the deceased law enforcement officer's family members; and
(D) The availability of similar information in other forms.
(4) (A) A custodian of a record described in subdivision (b)(1) of this section shall be given notice of:
(i) A petition filed with a circuit court to access a record described in subdivision (b)(1) of this section; and
(ii) The opportunity to be present and heard at any hearing on the matter.
(B) In addition to custodian notification under subdivision (d)(4)(A) of this section, the following people shall be provided notice described in subdivisions (d)(4)(A)(i) and (d)(4)(A)(ii) of this section:
(i) The surviving spouse of the deceased law enforcement officer, if any;
(ii) If the deceased law enforcement officer has no surviving spouse, the parents of the deceased law enforcement officer, if any; or
(iii) If the deceased law enforcement officer has no surviving parents and no surviving spouse, the adult children of the deceased law enforcement officer.
(e) This section does not:
(1) Prohibit a judge, jury, attorney, court personnel, or other persons necessary to a criminal, civil, or administrative proceeding involving the death of a law enforcement officer from viewing a record described in subdivision (b)(1) of this section;
(2) Overturn, abrogate, or alter a court order that exists on March 20, 2017, that restricts, limits, or grants access to a record described in subdivision (b)(1) of this section;
(3) (A) (i) Prohibit a law enforcement agency involved in an official investigation of a death of a law enforcement officer, including without limitation, the law enforcement agency by whom the deceased law enforcement officer was employed at the time of his or her death, the Department of Arkansas State Police, and the Federal Bureau of Investigation, from obtaining a record described in subdivision (b)(1) of this section for the purpose of conducting an official investigation pertaining to the death of a law enforcement officer.
(ii) However, a record used during an official investigation under subdivision (e)(3)(A)(i) of this section shall not be reproduced, transmitted, or disseminated for any purpose not authorized under this section.
(B)
(i) This section does not prohibit the law enforcement agency by whom the deceased law enforcement officer was employed from using a record described in subdivision (b)(1) of this section for law enforcement officer training or internal review.
(ii) However, a record used for the purpose of law enforcement officer training or internal review under subdivision (e)(3)(B)(i) of this section shall not be reproduced, transmitted, or disseminated for any purpose not authorized under this section.
(C) (i) This section does not prohibit the use of a record described in subdivision (b)(1) of this section for law enforcement officer training conducted by an entity authorized to conduct law enforcement training, including without limitation:
(a) The Black River Technical College Law Enforcement Training Academy;
(b) The Criminal Justice Institute;
(c) The Arkansas Law Enforcement Training Academy; or
(d) Other law enforcement officer training programs.
(ii) However, a record used for law enforcement officer training purposes under subdivision (e)(3)(C)(i) of this section shall not be reproduced, transmitted, or disseminated for any purpose not authorized under this section; or
(4)
(A) Prohibit a prosecuting attorney, deputy prosecuting attorney, defense counsel pursuant to a motion of discovery, their staff, or attorneys involved in civil litigation involving the death of a law enforcement officer from accessing or copying a record described in subdivision (b)(1) of this section.
(B) A record accessed or copied under subdivision (e)(4)(A) of this section shall not be reproduced, transmitted, or disseminated for any purpose not authorized under this

Chapter 12—Miscellaneous Laws

5-73-130 Minors—Seizure and forfeiture of firearm—seizure and forfeiture of motor vehicle—disposition of property seized

(a) If a person under eighteen (18) years of age is unlawfully in possession of a firearm, the firearm shall be seized and, after an adjudication of delinquency or a conviction, is subject to forfeiture.

(b) If a felon or a person under eighteen (18) years of age is unlawfully in possession of a firearm in a motor vehicle, the motor vehicle is subject to seizure and, after an adjudication of delinquency or a conviction, subject to forfeiture.

(c) As used in this section, "unlawfully in possession of a firearm" does not include any act of possession of a firearm that is prohibited only by a regulation or rule of the Arkansas State Game and Fish Commission.

(d) The procedures for forfeiture and disposition of the seized property are as follows:

(1) The prosecuting attorney of the judicial district within whose jurisdiction the property is seized that is sought to be forfeited shall promptly proceed against the property by filing in the circuit court a petition for an order to show cause why the circuit court should not order forfeiture of the property; and

(2) The petition shall be verified and shall set forth:

(A) A statement that the action is brought pursuant to this section;

(B) The law enforcement agency bringing the action;

(C) A description of the property sought to be forfeited;

(D) A statement that on or about a date certain there was an adjudication of delinquency or a conviction and a finding that the property seized is subject to forfeiture;

(E) A statement detailing the facts in support of subdivision (d)(1) of this section; and

(F) A list of all persons known to the law enforcement agency, after diligent search and inquiry, who may claim an ownership interest in the property by title or registration or by virtue of a lien allegedly perfected in the manner prescribed by law.

(e)(1) Upon receipt of a petition complying with the requirements of subdivision (d)(1) of this section, the circuit court judge having jurisdiction shall issue an order to show cause setting forth a statement that this subchapter is the controlling law.

(2) In addition, the order shall set a date at least forty-one (41) days from the date of first publication of the order pursuant to subsection (f) of this section for all persons claiming an interest in the property to file such pleadings as they desire as to why the circuit court should not order the forfeiture of the property for use, sale, or other disposition by the law enforcement agency seeking forfeiture of the property.

(3) The circuit court shall further order that any person who does not appear on that date is deemed to have defaulted and waived any claim to the subject property.

(f)(1) The prosecuting attorney shall give notice of the forfeiture proceedings by:

(A) Causing a copy of the order to show cause to be published two (2) times each week for two (2) consecutive weeks in a newspaper having general circulation in the county where the property is located with the last publication being not less than five (5) days before the show cause hearing; and

(B) Sending a copy of the petition and order to show cause by certified mail, return receipt requested, to each person having ownership of or a security interest in the property or in the manner provided in Rule 4 of the Arkansas Rules of Civil Procedure if:

(i) The property is of a type for which title or registration is required by law;

(ii) The owner of the property is known in fact to the law enforcement agency at the time of seizure; or

(iii) The property is subject to a security interest perfected in accordance with the Uniform Commercial Code, § 4-1-101 et seq.

(2) The law enforcement agency is only obligated to make diligent search and inquiry as to the owner of the property, and if, after diligent search and inquiry, the law enforcement agency is unable to ascertain the owner, the requirement of actual notice by mail with respect to a person having a perfected security interest in the property is not applicable.

(g) At the hearing on the matter, the petitioner has the burden to establish that the property is subject to forfeiture by a preponderance of the evidence.

(h) In determining whether or not a motor vehicle should be ordered forfeited, the circuit court may take into consideration the following factors:

(1) Any prior criminal conviction or delinquency adjudication of the felon or juvenile;

(2) Whether or not the firearm was used in connection with any other criminal act;

(3) Whether or not the motor vehicle was used in connection with any other criminal act;

(4) Whether or not the juvenile or felon was the lawful owner of the motor vehicle in question;

(5) If the juvenile or felon is not the lawful owner of the motor vehicle in question, whether or not the lawful owner knew of the unlawful act being committed that gives rise to the forfeiture penalty; and

(6) Any other factor the circuit court deems relevant.

(i) The final order of forfeiture by the circuit court shall perfect in the law enforcement agency right, title, and interest in and to the property and shall relate back to the date of the seizure.

(j) Physical seizure of property is not necessary in order to allege in a petition under this section that the property is forfeitable.

(k) Upon filing the petition, the prosecuting attorney for the judicial district may also seek a protective order to prevent the transfer, encumbrance, or other disposal of any property named in the petition.

(l) The law enforcement agency to which a motor vehicle is forfeited shall either:

(1) Sell the motor vehicle in accordance with subsection (m) of this section; or

(2) If the motor vehicle is not subject to a lien that has been preserved by the circuit court, retain the motor vehicle for official use.

(m)(1) If a law enforcement agency desires to sell a forfeited motor vehicle, the law enforcement agency shall first cause notice of the sale to be made by publication at least two (2) times a week for two (2) consecutive weeks in a newspaper having general circulation in the county and by sending a copy of the notice of the sale by certified mail, return receipt requested, to each person having ownership of or a security interest in the property or in the manner provided in Rule 4 of the Arkansas Rules of Civil Procedure if:

(A) The property is of a type for which title or registration is required by law;

(B) The owner of the property is known in fact to the law enforcement agency at the time of seizure; or

(C) The property is subject to a security interest perfected in accordance with the Uniform Commercial Code, § 4-1-101 et seq.

(2) The notice of the sale shall include the time, place, and conditions of the sale and a description of the property to be sold.

(3) The property shall then be disposed of at public auction to the highest bidder for cash without appraisal.

(n) The proceeds of any sale and any moneys forfeited shall be applied to the payment of:

(1) The balance due on any lien preserved by the circuit court in the forfeiture proceedings;

(2) The cost incurred by the seizing law enforcement agency in connection with the storage, maintenance, security, and forfeiture of the property;

(3) The costs incurred by the prosecuting attorney or attorney for the law enforcement agency, approved by the prosecuting attorney, to which the property is forfeited; and

(4) Costs incurred by the circuit court.

(o) The remaining proceeds or moneys shall be deposited into a special county fund to be titled the "Juvenile Crime Prevention Fund", and the moneys in the fund shall be used solely for making grants to community-based nonprofit organizations that work with juvenile crime prevention and rehabilitation.

(p)(1) The law enforcement agency to which a firearm is forfeited may trade the firearm to a federally licensed firearms dealer for credit toward future purchases by the law enforcement agency.

(2) If the firearm is unable to be traded to a federally licensed firearms dealer, the law enforcement agency may dispose of the firearm as the law enforcement agency deems appropriate.

section.

Record Sealing

16-90-1416. Release of Sealed Records

(a) The custodian of a sealed record shall not disclose the existence of the sealed record or release the sealed record except when requested by:

(1) The person whose record was sealed or the person's attorney when authorized in writing by the person;

(2) A criminal justice agency, as defined in § 12-12-1001, and the request is accompanied by a statement that the request is being made in conjunction with:

(A) An application for employment with the criminal justice agency by the person whose record has been sealed; or

(B) A criminal background check under the Polygraph Examiners Licensing Act, § 17-39-101 et seq., or the Private Security Agency, Private Investigator, and School Security Licensing and Credentialing Act, § 17-40-101 et seq.;

(3) A court, upon a showing of:

(A) A subsequent adjudication of guilt of the person whose record has been sealed; or

(B) Another good reason shown to be in the interests of justice;

(4) A prosecuting attorney, and the request is accompanied by a statement that the request is being made for a criminal justice purpose;

(5) A state agency or board engaged in the licensing of healthcare professionals;

(6) The Arkansas Crime Information Center; or

(7) The Arkansas Commission on Law Enforcement Standards and Training.

(b)(1) As used in this section, "custodian" does not mean the Arkansas Crime Information Center.

(2) Access to data maintained by the center shall be governed by § 12-12-1001 et seq.

16-19-1417. Effect of Sealing

a)(1) A person whose record has been sealed under this subchapter shall have all privileges and rights restored, and the record that has been sealed shall not affect any of his or her civil rights or liberties unless otherwise specifically provided by law.

(2) A person who wants to reacquire the right to vote removed from him or her as the result of a felony conviction must follow the procedures in Arkansas Constitution, Amendment 51, § 11.

(3) The effect of this subchapter does not reconfer the right to carry a firearm if that right was removed as the result of a felony conviction.

(b)(1) Upon the entry of the uniform order, the person's underlying conduct shall be deemed as a matter of law never to have occurred, and the person may state that the underlying conduct did not occur and that a record of the person that was sealed does not exist.

(2) This subchapter does not prevent the use of the record of a prior conviction otherwise sealed under this subchapter for the following purposes:

(A) A criminal proceeding for any purpose not otherwise prohibited by law;

(B) Determination of offender status under the former § 5-64-413;

(C) Habitual offender status, § 5-4-501 et seq.;

(D) Impeachment upon cross-examination as dictated by the Arkansas Rules of Evidence;

(E) Healthcare professional licensure by a state agency or board;

(F) Any disclosure mandated by Rule 17, 18, or 19 of the Arkansas Rules of Criminal Procedure; or

(G) Determination of certification, eligibility for certification, or of the ability to act as a law enforcement officer, by the

Arkansas Commission on Law Enforcement Standards and Training.

16-90-1405. Eligibility to file a uniform petition to seal a misdemeanor offense or violation

(a) A person is eligible to file a uniform petition under this subchapter to seal his or her record of a misdemeanor or violation immediately after:
(1) The completion of his or her sentence for the misdemeanor or violation, including full payment of restitution;
(2) Full payment of court costs;
(3) Full payment of driver's license suspension reinstatement fees, if a driver's license suspension reinstatement fee was assessed as a result of the person's arrest or conviction for the misdemeanor or violation; and
(4) The completion of all other driver's license reinstatement requirements, if a driver's license suspension was imposed as a result of the person's arrest or conviction for the misdemeanor or violation.
(b) There is not a limit to the number of times a person may file a uniform petition to seal his or her record of a misdemeanor or violation, except that the person may not file:
(1) A new uniform petition to seal one (1) of the following criminal offenses until after a period of five (5) years has elapsed since the completion of the person's sentence for the conviction:
(A) Negligent homicide, § 5-10-105, if it was a Class A misdemeanor;
(B) Battery in the third degree, § 5-13-203;
(C) Indecent exposure, § 5-14-112;
(D) Public sexual indecency, § 5-14-111;
(E) Sexual assault in the fourth degree, § 5-14-127; or
(F) Domestic battering in the third degree, § 5-26-305;
(2) A new uniform petition to seal a misdemeanor violation of driving or boating while intoxicated, § 5-65-103, until after the applicable lookback periods under § 5-65-111 have elapsed;
(3) A new uniform petition to seal a criminal offense listed in subdivisions (b)(1)(A)-(F) or (b)(2) of this section before one (1) year from the date of the order denying the previous uniform petition;
(4) A new uniform petition to seal a misdemeanor or violation before ninety (90) days from the date of an order denying a uniform petition to seal the misdemeanor or violation;
(5) A new uniform petition to seal a misdemeanor or violation under this section if an appeal of a previous denial of a uniform petition to seal a misdemeanor or violation for the same misdemeanor or violation is still pending; or
(6) A new uniform petition to seal a misdemeanor or violation under this section if:
(A) The person was a holder of a commercial driver license or commercial learner's permit at the time the misdemeanor or violation was committed; and
(B) The misdemeanor or violation was a traffic offense, other than a parking violation, vehicle weight violation, or vehicle defect violation, committed in any type of motor vehicle.
(c) Except as provided in subsection (b) of this section, a person is eligible to file a uniform petition to seal a misdemeanor or violation under this section even if his or her misdemeanor or violation occurred before January 1, 2014.

SCHOOL RESOURCE OFFICERS

6-10-128. School resource officers.

(a) A school district board of directors may accept from a local law enforcement agency with jurisdiction a school resource officer to assist with school security, safety, emergency preparedness, emergency response, or any other responsibility assigned to the school resource officer by the school or law enforcement agency.
(b) A school resource officer shall be a certified law enforcement officer and shall have statewide jurisdiction as described under § 16-81-118.
(c)(1) A school district board of directors that accepts a school resource officer shall enter into a memorandum of understanding with the local law enforcement agency with jurisdiction, or adopt policies and procedures if the school district has an institutional law enforcement officer as described by § 6-13-1701 et seq., that governs the school resource officer and includes without limitation:
(A) The financial responsibilities of each party;
(B) The chain of command;
(C) The process for the selection of school resource officers;
(D) The process for the evaluation of school resource officers;
(E) The training requirements for school resource officers; and
(F) The roles and responsibilities of school resource officers, which shall include without limitation:
(i) Clarification of the school resource officer's involvement in student discipline;
(ii) The use of physical restraints or chemical sprays;
(iii) The use of firearms; and
(iv) Making arrests on the public school campus.
(2) The memorandum of understanding required under subdivision (c)(1) of this section shall be based on a model memorandum created by the Division of Elementary and Secondary Education and the Arkansas Center for School Safety, which shall include without limitation the requirements listed in subdivision (c)(1) of this section.
(3) The Division of Elementary and Secondary Education shall promulgate rules specifying how the adoption of a memorandum of understanding or policies and procedures shall be verified.
(d)(1) Sworn, nonsupervisory law enforcement personnel, including without limitation school resource officers, who are assigned to a public school campus during the instructional day or employed by a public school district shall:
(A) Within eighteen (18) months of being assigned or employed by the public school district:
(i)(a) Complete a forty-hour basic school resource officer training program developed and provided, or approved, by the Arkansas Center for School Safety.
(b) The training required under subdivision (d)(1)(A)(i)(a) of this section shall include without limitation:
(1) The roles and responsibilities of school resource officers in public schools;
(2) Laws that are specific to public schools and students in public schools; and
(3) Adolescent behavior and development; and

(ii)(a) Obtain certification in Youth Mental Health First Aid.
(b) Youth Mental Health First Aid certification shall be maintained and renewed every four (4) years if the school resource officer remains assigned to or employed by a public school district;
(B)(i) Within five (5) years after receiving the initial basic school resource officer training program, complete a sixteen-hour school resource officer refresher training developed and provided, or approved, by the Arkansas Center for School Safety.
(ii) The school resource officer refresher training required under subdivision (d)(1)(B)(i) of this section shall be completed every five (5) years; and
(C)(i) Annually complete twelve (12) hours of public school-specific continuing education developed and provided, or approved, by the Arkansas Center for School Safety.
(ii) The Youth Mental Health First Aid training required under subdivision (d)(1)(A)(ii) of this section and the school resource officer refresher training required under subdivision (d)(1)(B) of this section shall count towards the twelve (12) hours of public school-specific continuing education required under subdivision (d)(1)(C)(i) of this section in the years during which the Youth Mental Health First Aid and school resource officer refresher trainings are completed.
(2) A school resource officer who is assigned by a public school for only extracurricular activities is exempt from the training requirements under subdivision (d)(1) of this section.
(e)(1) A public school district superintendent and public school principal who accept a school resource officer or employ an institutional officer as defined by § 6-13-1701 shall complete a one-hour school resource officer roles and responsibilities training developed and provided, or approved, by the Arkansas Center for School Safety within nine (9) months of accepting or employing the school resource officer.
(2) Public school district personnel directly responsible for supervising a school resource officer shall complete a one-hour school resource officer roles and responsibilities training developed and provided, or approved, by the Arkansas Center for School Safety within one (1) year of accepting or employing the school resource officer and every two (2) years thereafter.
(3) Training received by a licensed educator under subdivisions (e)(1) and (2) of this section may count towards the professional development required for renewal of an educator's license by the Division of Elementary and Secondary Education Rules Governing Professional Development.
(f)(1) The Arkansas Center for School Safety shall monitor compliance with the continuing education and training requirements under this section.
(2) A school resource officer who fails to complete any training required under this section shall be unable to serve as a school resource officer until the training required under this section is complete.
(3) A school resource officer shall not be assigned to a public school district or a public school in which the public school district superintendent or public school principal have not completed the training required under this section.

16-10-205. Citations.

(h) A citation issued by a school resource officer under § 16-81-118 is exempt from the requirements of this section.

16-81-118. Citation and arrest by a school resource officer.

(a) As used in this section, "school resource officer" means a school resource officer as described under § 6-10-128.

(b) A school resource officer may issue a citation to a person to appear in the local district court having jurisdiction over the place where a violation of state law occurred even if the school resource officer is outside of his or her jurisdiction if:

(1) The school resource officer is accompanying students on a school-sanctioned event that takes the students outside the county in which the school is located;

(2) The violation of state law is in conjunction with criminal activity that directly involves the students, school employees, or other persons participating in, observing, or assisting the school-sanctioned event; and

(3) The person who is the recipient of the citation is a student, school employee, or other person participating in, observing, or assisting the school-sanctioned event.

(c) The school resource officer shall use a citation book that substantially complies with the citation requirements under § 16-10-205.

(d) (1) A citation issued under this section is not valid unless the school resource officer provides at a minimum:

(A) The address and phone number of the district court having jurisdiction;

(B) The date and time when the recipient of the citation is to appear in the district court;

(C) A cite to the specific state law that was alleged to have been violated;

(D) The printed name and date of birth of the person receiving the citation; and

(E)(i) An opportunity for the person receiving the citation to sign the citation.

(ii) If the person who is to receive the citation refuses to sign the citation, the school resource officer is required to arrest the person and deliver him or her to the local law enforcement agency having jurisdiction immediately.

(2) The school resource officer shall file a copy of the citation issued under this section at least fifteen (15) days before the court date listed on the citation.

(3) The school resource officer shall provide a person receiving a citation under this section a full and complete copy of the citation.

Audit of all untested sexual assault collection kits

Tit. 12, Subtit. 2, Ch. 12, Subch. 1 Note

(a) As used in this section:

(1) "Healthcare provider" means an individual or facility that provides a medical-legal examination;

(2) "Law enforcement agency" means a police force or organization whose primary responsibility as established by statute or ordinance is the enforcement of the criminal laws, traffic laws, or highway laws of this state;

(3) "Medical-legal examination" means health care delivered to a possible victim of a sex crime, with an

emphasis on the gathering and preserving of evidence for the purpose of prosecution;

(4) "Sex crime" means an offense described in Section 5-14-101 et seq. or Section 5-26-202;

(5) "Sexual assault collection kit" means a human biological specimen or specimens collected during a medical-legal examination from the alleged victim of a sex crime; and

(6) "Untested sexual assault collection kit" means a sexual assault collection kit that has not been submitted to the State Crime Laboratory or a similar qualified laboratory for either a serology or DNA test.

(b)(1) The State Crime Laboratory shall develop a:

(A) Sexual assault evidence inventory audit document for a law enforcement agency; and

(B) Sexual assault evidence inventory audit document for a healthcare provider.

(2) (A) The sexual assault evidence inventory audit document for a law enforcement agency and the sexual assault evidence inventory audit document for a healthcare provider shall be reviewed and updated periodically.

(B) The updated sexual assault evidence inventory audit document for a law enforcement agency and the sexual assault evidence inventory audit document for a healthcare provider may be set forth in rules promulgated by the State Crime Laboratory under the Arkansas Administrative Procedure Act, Section 25-15-201 et seq.

(c) Before December 31 of each year, a law enforcement agency that maintains, stores, or preserves sexual assault evidence shall conduct an audit of all untested sexual assault collection kits and any associated evidence being stored by the law enforcement agency and report the information to the State Crime Laboratory, using the sexual assault evidence inventory audit document for a law enforcement agency.

(d) Before December 31 of each year, each healthcare provider charged with performing medical-legal examinations shall conduct an audit of all untested sexual assault collection kits being stored by the healthcare provider and report the information to the State Crime Laboratory, using the sexual assault evidence inventory audit document for a healthcare provider.

(e) The State Crime Laboratory may communicate with a healthcare provider or a law enforcement agency for the purpose of coordinating testing and other appropriate handling of sexual assault collection kits.

(f) Except as set forth in subsection (g) of this section, information reported to the State Crime Laboratory under this section, as well as information compiled or accumulated by a healthcare provider or law enforcement agency for the purpose of audits required by this section, is confidential and not subject to discovery under the Arkansas Rules of Civil Procedure or the Freedom of Information Act of 1967, Section 25-19-101 et seq.

(g) On or before each February 1, the State Crime Laboratory shall prepare and transmit to the President Pro Tempore of the Senate and the Speaker of the House of Representatives a report containing:

(1) A compilation of the data submitted by law enforcement agencies and healthcare providers under this section, with the data reported in the aggregate; and

(2) A plan to address any backlog of untested sexual assault collection kits.

(h) This section does not remove confidentiality protection for an alleged victim of a sexual assault or other sex crime otherwise provided under Arkansas or federal laws, rules, or regulations.

(i) A medical-legal examination continues to be subject to Section 12-12-402 or other applicable law.

LAWS REGARDING PAWNBROKERS

Acts 2015, No. 1242, § 1

" (1) Certain provisions of Arkansas law requiring a pawnbroker to turn over personal property based upon the affidavit of the alleged owner without a judicial determination of the merits of the demanding owner's claim, and the pawnbroker's corresponding liability for costs, attorney's fees, and damages, were held to be unconstitutional in Landers v. Jameson, 355 Ark. 163, 132 S.W.3d 741 (2003), for failure to provide the pawnbroker notice and an opportunity for a hearing before taking the property pawned to the pawnbroker; stolen property before releasing the property to the true owner;

" (2) The law should encourage dealers in secondhand goods, including pawnbrokers, to return stolen property to the rightful owner without penalty while protecting respective property rights;

" (3) To assist the recovery of stolen property:

" (A) Full disclosure should be made of the respective rights of the parties to stolen property to encourage:

" (i) The parties to resolve disputed claims to stolen property; and

" (ii) The reporting of acts of theft and dishonesty to appropriate law enforcement authorities; and

" (B) A right to recover and deliver stolen property without the threat of additional loss; and

" (4) Appropriate penalties should be provided if:

" (A) The rights of the parties to stolen property in the possession of a dealer are not disclosed by the dealer;

" (B) Clearly identifiable stolen property is wrongfully withheld from the rightful owner; or

" (C) Stolen property is defaced or other action is taken to hide or hinder the identification of stolen property."

Secondhand Goods Reform and Disclosure Act

18-27-302. Definitions.

As used in this subchapter:

(1) "Dealer" means an individual or entity that is engaged in the business of:

(A) Lending money upon the security of an article of personal property that is retained by the individual or entity until:

(i) The loan is repaid; or

(ii) The time to repay the loan has expired; or

(B) Purchasing other than at wholesale or retail an article of personal property for resale in any form;

(2) "Defacing identifiable stolen personal property" means performing or acquiescing in an act designed to remove, destroy, mutilate, disguise, or otherwise purposefully and willfully prevent detection of identifiable stolen personal property;

(3) "Identifiable stolen personal property" means personal property that is:

(A) Reported stolen to an appropriate law enforcement agency;

(B) Described in the official stolen property report of the law enforcement agency by serial number, vehicle identification number, license registration number, or other numbers, letters, symbols, or markings that authenticate the specific personal property in the possession of the dealer; and

(C) Connected by documentation, such as a receipt, presented to the dealer by the owner demonstrating the likelihood of current ownership; and

(4) "Insider" means a family member or friend of the owner of stolen property.

18-27-303. Recovery of personal property and identifiable stolen personal property – Liability.

(a) An owner of stolen personal property may request that a dealer return the stolen property without charge to the owner by signing and following the terms of the affidavit in favor of the dealer as described in § 18-27-304(b).

(b) Unless reasonable cause exists, within seven (7) days after the later of the receipt of an affidavit described in § 18-27-304(b) and the written release, either conditional or outright, of any property hold issued by any law enforcement agency with respect to the identifiable stolen property, a dealer shall:

(1) Deliver the identifiable stolen property to the owner; or

(2) File a legal action in a court of competent jurisdiction to determine ownership.

(c) If the dealer refuses to make an election under subsection (b) of this section, the owner may file a replevin action to recover the property and the court may award and apportion costs and attorney's fees as appropriate under the facts of the case.

18-27-304. Notice concerning recovery of personal property and identifiable stolen personal property.

(a) Once an owner requests the return of stolen property, a dealer shall deliver a written notice as to the owner's rights.

(b) The written notice required by subsection (a) of this section shall be written in bold letters that are each at least 12-point type and read as follows:

"NOTICE CONCERNING STOLEN PROPERTY

PLEASE TAKE NOTICE THAT THE RIGHTFUL OWNER MAY ASK A DEALER IN SECONDHAND GOODS ("DEALER") TO RETURN STOLEN PROPERTY BY SHOWING PROOF OF OWNERSHIP OF THE PROPERTY AND SIGNING AN AFFIDAVIT AS TO OWNERSHIP, INDEMNIFYING AND HOLDING THE DEALER HARMLESS FROM LOSS ("AFFIDAVIT"). THE AFFIDAVIT MUST RELATE TO IDENTIFIABLE STOLEN PERSONAL PROPERTY AND BE IN THE FORM BELOW OR ATTACHED TO THIS NOTICE. AFTER DELIVERY OF THE AFFIDAVIT TO THE DEALER AND THE RELEASE OF ANY PROPERTY HOLD PLACED ON THE PROPERTY BY A LAW ENFORCEMENT AGENCY, THE DEALER HAS SEVEN (7) DAYS TO EITHER RELINQUISH THE IDENTIFIABLE STOLEN PERSONAL PROPERTY OR FILE A LEGAL ACTION IN COURT TO DETERMINE OWNERSHIP.

IF THE DEALER REFUSES TO DELIVER THE PROPERTY OR FILE AN ACTION IN COURT TO DETERMINE OWNERSHIP WITHIN SEVEN (7) DAYS THEREAFTER, THE OWNER MAY ATTEMPT TO RECOVER THE ITEMS OF STOLEN PERSONAL PROPERTY WITHOUT PAYMENT TO THE DEALER BY FILING A LEGAL ACTION IN COURT. IF THE COURT DETERMINES THAT THE DEALER REFUSED TO EITHER DELIVER THE PERSONAL PROPERTY OR FILE AN ACTION IN COURT TO DETERMINE OWNERSHIP WITHIN SEVEN (7) DAYS, WITHOUT REASONABLE CAUSE, THE DEALER COULD BE ORDERED TO RETURN THE IDENTIFIABLE STOLEN PERSONAL PROPERTY TO THE OWNER WITHOUT CHARGE TO THE OWNER.

HOWEVER, IF THE COURT DETERMINES THAT THE PROPERTY WAS ACQUIRED BY THE DEALER FROM A FAMILY MEMBER OR FRIEND, THE OWNER IS ENTITLED TO RECOVER THE PROPERTY ONLY UPON REIMBURSING THE COST TO THE DEALER OF ACQUIRING THE PROPERTY.

IF LEGAL ACTION IS FILED TO RECOVER PROPERTY IN THE POSSESSION OF THE DEALER, THE COURT MAY AWARD AND APPORTION COSTS AND ATTORNEY'S FEES AS APPROPRIATE.

"IDENTIFIABLE STOLEN PERSONAL PROPERTY" MEANS PERSONAL PROPERTY THAT IS:

(A) REPORTED STOLEN TO AN APPROPRIATE LAW ENFORCEMENT AGENCY;

(B) DESCRIBED IN THE OFFICIAL STOLEN PROPERTY REPORT OF THE LAW ENFORCEMENT AGENCY BY SERIAL NUMBER, VEHICLE IDENTIFICATION NUMBER, LICENSE REGISTRATION NUMBER, OR OTHER NUMBERS, LETTERS, SYMBOLS, OR MARKINGS THAT AUTHENTICATE THE SPECIFIC PERSONAL PROPERTY IN THE POSSESSION OF DEALER; AND

(C) CONNECTED BY DOCUMENTATION (SUCH AS A RECEIPT) PRESENTED TO THE DEALER BY THE OWNER DEMONSTRATING THE LIKELIHOOD OF CURRENT OWNERSHIP. TO PROCEED, PLEASE COMPLETE THE FOLLOWING AFFIDAVIT AND DELIVER TO THE DEALER.

AFFIDAVIT AS TO OWNERSHIP, INDEMNITY AND HOLD HARMLESS AGREEMENT

STATE OF ARKANSAS

COUNTY OF _____

BEFORE THE UNDERSIGNED, _____, DULY QUALIFIED AND ACTING IN AND FOR THIS COUNTY AND STATE, APPEARED _____ [TO ME WELL KNOWN] [SATISFACTORILY PROVEN] TO BE THE AFFIANT HEREIN, WHO STATED THE FOLLOWING UNDER OATH:

1. I, _____, AM THE SOLE, TRUE AND ABSOLUTE OWNER OF PERSONAL PROPERTY ("PROPERTY"), FREE OF ANY LIENS AND ENCUMBRANCES DESCRIBED AS:

_____ _____

_____

AND CURRENTLY IN THE POSSESION OF:

_____
_____("DEALER")

2. I HAVE REPORTED THE PROPERTY STOLEN TO THE APPROPRIATE LAW ENFORCEMENT AGENCY AND HAVE PRESENTED THE DEALER WITH THE FOLLOWING DOCUMENTATION WITH REGARD TO MY OWNERSHIP OF THE PROPERTY AND SUCH DOCUMENTATION IS ATTACHED HERETO:
a. OFFICIAL STOLEN PROPERTY REPORT OF A LAW ENFORCEMENT AGENCY SHOWING SERIAL NUMBER, VEHICLE IDENTIFICATION NUMBER, LICENSE REGISTRATION NUMBER, OR OTHER NUMBERS, LETTERS, SYMBOLS, OR MARKINGS THAT AUTHENTICATE THE SPECIFIC PERSONAL PROPERTY IN THE POSSESSION OF DEALER. SAID REPORT IS ISSUED BY:

_____

AND HAS A REPORT NUMBER OF_____

b. DOCUMENTATION DEMONSTRATING THE LIKELIHOOD OF MY CURRENT OWNERSHIP OF THE PROPERTY, SPECIFICALLY DESCRIBED AS:_____

_____

3. I WILL COOPERATE WITH LAW ENFORCEMENT AND THE PROSECUTOR IN ALL RESPECTS REGARDING THE THEFT OF PROPERTY.
4. I UNDERSTAND THE DEALER CANNOT RELEASE PROPERTY THAT IS SUBJECT TO A LAW ENFORCEMENT PROPERTY HOLD AND ANY SUCH HOLD MUST BE REMOVED BEFORE THE PROPERTY CAN BE DELIVERED TO ME.
5. I UNDERSTAND THE DEALER HAS SEVEN (7) DAYS TO EITHER RELEASE THE PROPERTY TO ME OR FILE A LEGAL ACTION TO DETERMINE OWNERSHIP.
6. THE PERSON THAT CAUSED THE ITEM TO BE IN THE POSSESSION OF THE DEALER IS NOT A FAMILY MEMBER OR FRIEND OF MINE.
7. I UNDERSTAND THAT I MAY BE SUBJECT TO CIVIL OR CRIMINAL PENALTIES IF THE REPRESENTATIONS I AM MAKING HEREIN ARE UNTRUE.
8. I WILL INDEMNIFY AND HOLD THE DEALER HARMLESS FOR ANY AND ALL LOSS OCCASIONED BY THE REPRESENTATIONS MADE IN THIS AFFIDAVIT WITH REGARD TO THE PROPERTY. FURTHER THE AFFIANT SAYETH NOT.

IN WITNESS WHEREOF, I HEREUNTO SET MY HAND THIS _____ DAY OF _____.

_____

OWNER

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF_____.

Click here to view form

MY COMMISSION EXPIRES:

_____[SEAL]"

18-27-305. Limitations on the purchase, maintenance, and disposition of personal property – Defacing identifiable stolen personal property.
A dealer shall not:

(1) Purchase or receive personal property as security from a person under eighteen (18) years of age who has not been emancipated under § 9-26-104; or

(2) Deface identifiable stolen personal property.

LAWS REGARDING PAROLE AND PROBATION OFFICERS

A.C.A § 16-93-103 – Authorizes parole and probation officers to carry guns
A.C.A. § 5-14-110, -125, -126 – Prohibits improper sexual conduct between a probation officer and a person being supervised on probation

SEX OFFENDER REGISTRATION

A.C.A. § 12-12-919. Termination of obligation to register

(a) Lifetime registration is required for a sex offender who:
(1) Was found to have committed an aggravated sex offense;
(2) Was determined by the court to be or assessed as a Level 4 sexually dangerous person;
(3) Has pleaded guilty or nolo contendere to or been found guilty of a second or subsequent sex offense under a separate case number, not multiple counts on the same charge;
(4) Was convicted of rape by forcible compulsion, § 5-14-103(a)(1), or other substantially similar offense in another jurisdiction; or
(5) Has pleaded guilty or nolo contendere to or been found guilty of failing to comply with registration and reporting requirements under § 12-12-904 three (3) or more times.
(b)(1)(A)(i)(a) Any other sex offender required to register under this subchapter may apply in the jurisdiction in which he or she was convicted for an order terminating the obligation to register to the sentencing court fifteen (15) years after the date the sex offender first registered in Arkansas.
(b) If the sex offender was incarcerated in a correctional facility, the date the sex offender first registered in Arkansas is the date the sex offender registered upon his or her release from the correctional facility.
(ii) After fifteen (15) years of having been registered as a sex offender in Arkansas, a sex offender sentenced in another state but permanently residing in Arkansas may apply for an order terminating the obligation to register in the circuit court of the county in which the sex offender resides or has last resided within this state.
(B)(i) The court shall hold a hearing on the application at which the applicant and any interested persons may present witnesses and other evidence.

(ii) No less than twenty (20) days before the date of the hearing on the application, a copy of the application for termination of the obligation to register shall be served on:
(a) The prosecutor of the county in which the adjudication of guilt triggering registration was obtained if the sex offender was convicted in this state; or
(b) The prosecutor of the county where a sex offender resides if the sex offender was convicted in another state.
(iii) A copy also shall be served to the Arkansas Sex Offender Registry in the Arkansas Crime Information Center and to Community Notification Assessment at least twenty (20) days before the hearing.
(C) If the sex offender has not been assessed in the five (5) years before making a request to terminate the obligation to register under this section, the prosecuting attorney may request a reassessment and an order terminating the obligation to register shall not be granted without a reassessment.
(2) The court shall grant an order terminating the obligation to register upon proof by a preponderance of the evidence that:
(A) The applicant, for a period of fifteen (15) years after the applicant was released from prison or other institution or placed on parole, supervised release, or probation has not been adjudicated guilty of a sex offense; and
(B) The applicant is not likely to pose a threat to the safety of others.
(3)(A) A sex offender required to register as a result of a conviction for permitting the physical abuse of a minor under § 5-27-221 may apply for termination of the obligation to register at any time after July 22, 2015.
(B) The court shall grant an order under this subdivision (b)(3) terminating the obligation to register upon proof by a preponderance of the evidence that the facts underlying the offense for which the sex offender is required to register no longer support a requirement to register.
(c) If a court denies a petition to terminate the obligation to register under this section, the sex offender may not file a new petition to terminate the obligation to register under this section before three (3) years from the date the order denying the previous petition was filed.
(d) The center shall remove a sex offender from the registry upon receipt by the center of adequate proof that the sex offender has died.

Out of State Law Enforcement

A.C.A. § 16-81-404 authorizes any member of a duly organized state, county, or municipal peace unit of another sate who enters the state of Arkansas in "fresh pursuit" of a person to arrest him on the ground that he is believed to have committed a felony or an offense of driving or operating a vehicle while intoxicated, impaired, or under the influence.

12-9-124. Part-time law enforcement officers—Number restricted

(a)(1) A political subdivision may appoint a number of part-time law enforcement officers equal to two (2) part-time law enforcement officers for each full-time certified law enforcement officer employed full-time by and receiving a salary from the appointing law enforcement agency.
(2)(A) However, if a political subdivision has a need for a greater number of part-time law enforcement officers than is authorized in subdivision (a)(1) of this section due to special or unusual problems or circumstances, the political subdivision may make a request to the Arkansas Commission on Law Enforcement Standards and Training for additional part-time law enforcement officers.
(B) Each request under subdivision (a)(2)(A) of this section shall state the special or unusual problems or circumstances involved that justify the request, the number of additional part-time law enforcement officers requested, and such other information as the commission may require.
(C) If the commission finds that the public interest will best be served by allowing the political subdivision to appoint the additional part-time law enforcement officers requested, the commission may grant the request under subdivision (a)(2)(A) of this section.
(b) This section does not restrict the number of honorary police officers without law enforcement authority.

State-Funded Law Enforcement Training Academy

Act 183 of 2017 amended A.C.A. § 12-9-207 to replace ALETA with "a state-funded law enforcement training academy" allowing a newly elected county sheriff or unopposed county sheriff to intend a state-funded law enforcement training academy for purposes of training and instruction. § 12-9-909 was also amended to allow reimbursement for training expenses for law enforcement officers attending a state-funded law enforcement training academy.

Medical Marijuana Resources

In the November 2016 General Election, Arkansas voters approved a ballot initiative legalizing medical marijuana in the state. As a result, the 91st General Assembly passed several amendments to clarify the law relating to medical marijuana.

Medical Marijuana resources including Amendment 98, Medical Marijuana Acts passed during the 2017 Legislative Session, and Rules and Regulations from the Arkansas Medical Marijuana Commission, Alcoholic Beverage Control Division, and Arkansas Department of Health can be found on the Association of Arkansas Counties website at https://www.arcounties.org/media/press-releases/medical-marijuana-resources/.

Telemedicine Act

§ 17-80-402. Definition.
§ 17-80-403. Establishment of professional relationship
§ 17-80-404. Appropriate use of telemedicine
§ 17-80-405. Liability – Noncompliance.
§ 17-80-406. Rules.
§ 17-80-407. Construction.

ADDITIONAL IMPORTANT CODE SECTIONS

Please refer to the most recent edition of the Arkansas County Compliance Guide for full sections of code.

A.C.A. § 5-4-101- Disposition of Offenders

A.C.A. § 5-73-301- Concealed Handguns
A.C.A. § 12-9-118 – New or Inactive law enforcement agency
A.C.A. § 12-30-401- Work Release Program
A.C.A. § 12-41-201- Local Correctional Facilities
A.C.A. § 12-50-101- Corrections Cooperative Endeavors and Private Management

5-4-101. Definitions
As used in this chapter:
(1)(A) "Imprisonment" means:
(i) Incarceration in a detention facility operated by the state or any of its political subdivisions; or
(ii) Home detention as described in § 16-93-708.
(B) "Imprisonment" may mean incarceration in a privately operated detention facility under contract to the state or any of its political subdivisions;
(2) "Probation" or "place on probation" means a procedure in which a defendant who pleads or is found guilty of an offense is released by the court without pronouncement of sentence but subject to the supervision of a probation officer;
(3) "Probation officer" means a salaried officer attached to the court pursuant to § 16-93-402 or a reputable person designated by the court to supervise a defendant who is placed on probation;
(4) "Recidivism" means a criminal act that results in the rearrest, reconviction, or return to incarceration of a person with or without a new sentence during a three-year period following the person's release from custody;
(5)(A) "Restitution" means the act of making good or giving equivalent value for any loss, damage, or injury.
(B) "Restitution" may also include in the event of an injury or loss that the offender has special capacity to restore or repair a sentence to perform that reparation; and
(6) "Suspension" or "suspend imposition of sentence" means a procedure in which a defendant who pleads or is found guilty of an offense is released by the court without pronouncement of sentence and without supervision.
(7) "Delinquent" means the defendant:
(A) Has failed to pay his or her fines and costs that resulted from his or her felony conviction; and
(B) Has not paid his or her installment for three (3) consecutive months if the defendant is on an installment payment plan.

5-4-207. Installment Payments—Request for temporary acceptance
(a)(1) If a defendant is paying a fine or costs as the result of a felony conviction in installments as authorized under § 5-4-202(b), the defendant may contact the entity with the responsibility to collect the fines or costs and request that the entity permit a lower installment payment based upon a demonstration of hardship.
(2)(A) Lower installment payments may be accepted by the entity with the responsibility to collect the fines or costs under subdivision (a)(1) of this section for no more than three (3) consecutive months.
(B) A request for and acceptance of lower installment payments in excess of or more than three (3) months shall be made by order of the circuit court.
(b)(1) A defendant shall not request permission under subsection (a) of this section if the defendant's failure to pay is attributable to the defendant's:
(A) Purposeful refusal to obey the sentence of the court; or
(B) Refusal or failure to make a good-faith effort to obtain the funds required for payment.
(2)(A) If a defendant becomes delinquent in his or her installment payments and a warrant is issued for the defendant's arrest, the bond amount set by the court shall not exceed ten percent (10%) of the amount of the defendant's arrearage.
(B) However, a defendant is not delinquent during a period in which he or she:
(i) Has had his or her installment payment amount lowered as provided under subsection (a) of this section; and
(ii) Is making installment payments in accordance with the lower payments as temporarily authorized under subsection (a) of this section.
(c)(1) An inmate in the Department of Corrections upon request is permitted to file in the circuit court in which the inmate has outstanding fines, court costs, fees, or restitution obligations notice to the circuit court of his or her incarceration and to seek temporary abatement or the imposition of reduced installment payments during the period of his or her incarceration.
(2) An inmate in the department upon request may be allowed to make arrangements during the time period six (6) months or less before his or her release from custody to file in the circuit court in which the inmate has outstanding fines, court costs, fees, or restitution obligations notice to the circuit court of his or her impending release from incarceration and to seek temporary abatement or the imposition of reduced installment payments during the six-month period immediately following the scheduled release from incarceration.
(d)(1) If the circuit court determines that a hearing is necessary, a hearing under this subsection may be conducted.
(2) The preferred method to conduct the hearing is by telephone, video conference, or other electronic means.

12-18-402—Mandated Reporters
(a) An individual listed as a mandated reporter under subsection (b) of this section shall immediately notify the Child Abuse Hotline if he or she:
(1) Has reasonable cause to suspect that a child has:
(A) Been subjected to child maltreatment;
(B) Died as a result of child maltreatment; or
(C) Died suddenly and unexpectedly; or
(2) Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.
(b) The following individuals are mandated reporters under this chapter:
(1) A child care worker or foster care worker;
(2) A coroner;
(3) A day care center worker;
(4) A dentist;
(5) A dental hygienist;
(6) A domestic abuse advocate;
(7) A domestic violence shelter employee;
(8) A domestic violence shelter volunteer;
(9) An employee of the Department of Human Services;

(10) An employee working under contract for, or a contractor of, the Department of Human Services when acting within the scope of his or her contract or employment;
(11) A foster parent;
(12) A judge;
(13) A law enforcement official;
(14) A licensed nurse;
(15) Medical personnel who may be engaged in the admission, examination, care, or treatment of persons;
(16) A mental health professional or paraprofessional;
(17) An osteopath;
(18) A peace officer;
(19) A physician;
(20) A prosecuting attorney;
(21) A resident intern;
(22) A full-time or part-time employee of a public school or private school, including without limitation:
(A) A school counselor;
(B) A school official;
(C) A teacher;
(D) A coach or director of a public or private athletic organization, team, or club; and
(E) A coach or director of a public or private nonathletic organization, team, or club;
(23) A person who is at least twenty-one (21) years of age and volunteers in a public school or private school:
(A) As a coach or director of a public or private athletic organization, team, or club; or
(B) As a coach or director of a public or private nonathletic organization, team, or club;
(24) A person employed as a school official in an institution of higher education;
(25) A social worker;
(26) A surgeon;
(27) A court-appointed special advocate program staff member or volunteer;
(28) A juvenile intake or probation officer;
(29) A clergy member, which includes a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization, or an individual reasonably believed to be so by the person consulting him or her, except to the extent the clergy member:
(A) Has acquired knowledge of suspected child maltreatment through communications required to be kept confidential pursuant to the religious discipline of the relevant denomination or faith; or
(B) Received the knowledge of the suspected child maltreatment from the alleged offender in the context of a statement of admission;
(30) An employee of a child advocacy center or a child safety center;
(31) An attorney ad litem in the course of his or her duties as an attorney ad litem;
(32)(A) A sexual abuse advocate or sexual abuse volunteer who works with a victim of sexual abuse as an employee of a community-based victim service or mental health agency such as Safe Places, United Family Services, Inc., or Centers for Youth and Families.
(B) A sexual abuse advocate or sexual abuse volunteer includes a paid or volunteer sexual abuse advocate who is based with a local law enforcement agency;
(33) A rape crisis advocate or rape crisis volunteer;
(34)(A) A child abuse advocate or child abuse volunteer who works with a child victim of abuse or maltreatment as an employee of a community-based victim service or a mental health agency such as Safe Places, United Family Services, Inc., or Centers for Youth and Families.
(B) A child abuse advocate or child abuse volunteer includes a paid or volunteer sexual abuse advocate who is based with a local law enforcement agency;
(35) A victim/witness coordinator;
(36) A victim assistance professional or victim assistance volunteer;
(37) An employee of the Crimes Against Children Division of the Division of Arkansas State Police;
(38) An employee of a reproductive healthcare facility;
(39) A volunteer at a reproductive healthcare facility;
(40) An individual not otherwise identified in this subsection who is engaged in performing his or her employment duties with a nonprofit charitable organization other than a nonprofit hospital; and
(41) A Child Welfare Ombudsman.
(c)(1) A privilege or contract shall not prevent a person from reporting child maltreatment when he or she is a mandated reporter and required to report under this section.
(2) An employer or supervisor of an employee identified as a mandated reporter shall not prohibit an employee or a volunteer from directly reporting child maltreatment to the Child Abuse Hotline.
(3) An employer or supervisor of an employee identified as a mandated reporter shall not require an employee or a volunteer to obtain permission or notify any person, including an employee or a supervisor, before reporting child maltreatment to the Child Abuse Hotline.
(d) A mandated reporter who in good faith notifies the Child Abuse Hotline in accordance with subsection (a) of this section is immune from civil and criminal liability.

12-18-813—Notice of investigative determination upon satisfaction of due process—child maltreatment

(a)(1) Due process has been satisfied when:
(A) The alleged offender eighteen (18) years of age or older at the time the act or omission occurred was provided written notice of the true investigative determination as required by this chapter but failed to timely request an administrative hearing;
(B) The alleged offender eighteen (18) years of age or older at the time the act or omission occurred timely requested an administrative hearing and a decision has been issued by the administrative law judge; or
(C) The alleged offender was a child at the time the act or omission occurred and the child or his or her legal parent or legal guardian waived the administrative hearing or the administrative law judge issued a decision.
(2) Upon satisfaction of due process, if the investigative determination is true, the alleged offender's name shall be placed in the Child Maltreatment Central Registry.
(b)(1) Upon satisfaction of due process and if the investigative determination is true, the Department of Human Services and the Division of Arkansas State Police shall provide the local educational agency, specifically the school counselor at the school the maltreated child attends, a report including the name and relationship of the offender to the maltreated child and the services offered or provided by the

Department of Human Services and the Division of Arkansas State Police to the child.
(2) Upon completion of due process, the Department of Human Services and the Division of Arkansas State Police shall provide the local educational agency, specifically the school counselor at the school the maltreated child attends, a report indicating the Department of Human Services' and the Division of Arkansas State Police's true investigative determination on any child ten (10) years of age or older who is named as the offender in a true report and the services offered or provided by the Department of Human Services and the Division of Arkansas State Police to the juvenile offender.
(3) Any local educational agency receiving information under this section from the Department of Human Services and the Division of Arkansas State Police shall make this information, if it is a true report, confidential and a part of the child's permanent educational record and shall treat information under this section as educational records are treated under the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.
(c)(1) Upon satisfaction of due process and if the investigative determination is true, if the offender is engaged in child-related activities or employment, works with the elderly, an individual with a disability, or an individual with a mental illness, or is a juvenile and the Department of Human Services or the Division of Arkansas State Police has determined that children, the elderly, or individuals with a disability or mental illness under the care of the offender appear to be at risk of maltreatment by the offender, the Department of Human Services or the Division of Arkansas State Police may notify the following of the investigative determination:
(A) The offender's employer;
(B) A school superintendent, principal, or a person in an equivalent position where the offender is employed;
(C) A person in charge of a paid or volunteer activity;
(D) Any licensing or registering authority to the extent necessary to carry out its official responsibilities; and
(E) The custodial parent, custodian, or guardian of a child who is or may be currently cared for or supervised by the offender.
(2) The Department of Human Services and the Division of Arkansas State Police shall promulgate rules that shall ensure that notification required under this subsection is specifically approved by a responsible manager in the Department of Human Services or the Division of Arkansas State Police before the notification is made.
(3) If the Department of Human Services and the Division of Arkansas State Police later determine that there is not a preponderance of the evidence indicating that children under the care of the alleged offender appear to be at risk, the Department of Human Services and the Division of Arkansas State Police shall immediately notify the previously notified person or entity of that information.
(4)(A) Upon satisfaction of due process, the Department of Human Services and the Division of Arkansas State Police may notify the entity or person in charge of the investigative determination if:
(i) The investigative determination is true; and
(ii) The alleged offender is a juvenile who is in a setting or circumstance where other children appear to be at risk.
(B) The Department of Human Services and the Division of Arkansas State Police shall promulgate rules to ensure that notification required under this section is specifically approved by a responsible manager in the Department of Human Services or the Division of Arkansas State Police before notification is made.
(C) If the Department of Human Services and the Division of Arkansas State Police later determine that there is no preponderance of the evidence indicating that children appear to be at risk, the Department of Human Services and the Division of Arkansas State Police shall immediately notify the previously notified entity or person of that information.
(d) Upon satisfaction of due process, if the victim or offender is in foster care, notification of the investigative determination shall be provided to:
(1) The legal parents, legal guardians, and current foster parents of the victim; and
(2) The attorney ad litem and court-appointed special advocate volunteer for the victim or offender.
(e) Upon satisfaction of due process, notification of the investigative determination shall be provided to the following:
(1) All subjects of the report; and
(2) As required by § 21-15-110, the employer of any offender if the offender is in a designated position with a state agency.
(f) Upon satisfaction of due process, the Department of Human Services and the Division of Arkansas State Police shall confirm the investigative determination to the following, upon request:
(1) The responsible multidisciplinary team;
(2) The juvenile division of circuit court, if the victim or offender has an open dependency-neglect or family in need of services case;
(3) The attorney ad litem for a child who is named as the victim or offender;
(4) The Court Appointed Special Advocates volunteer for a child named as the alleged victim or offender;
(5) Any licensing or registering authority if it is necessary to carry out its official responsibilities;
(6) Any Department of Human Services division director or facility director receiving notice of a Child Abuse Hotline report under this subchapter;
(7) The attorney ad litem and Court Appointed Special Advocates volunteer for all other children in the same foster home if the child maltreatment occurred in a foster home;
(8) The attorney ad litem and Court Appointed Special Advocates volunteer for any child in foster care when the alleged offender or underaged juvenile offender is placed in the same placement as the attorney ad litem or Court Appointed Special Advocates volunteer's client;
(9) A child safety center if involved in the investigation;
(10) Law enforcement;
(11) The prosecuting attorney in cases of severe maltreatment;
(12) Any family advocacy program or other person designated by the military authority for the military installation receiving notice of a Child Abuse Hotline report under § 12-18-508; and
(13) The attorney ad litem and court-appointed special advocate of a juvenile who has an open dependency-neglect case, if the alleged offender or the minor victim resides in the home or in the proposed placement location for the juvenile

that is not a licensed foster home, adoptive home, shelter, or facility.
(g) Upon satisfaction of due process, the Department of Human Services and the Division of Arkansas State Police may notify the persons or entities listed in subsection (f) of this section of the investigative determination if the Department of Human Services and the Division of Arkansas State Police determine that the notification is necessary to accomplish the purposes of § 12-18-102.

12-18-909—Availability of true reports of child maltreatment from the central registry

(a) True reports of child maltreatment are confidential and may be disclosed only as provided in this chapter.
(b)(1) The Department of Human Services and the Division of Arkansas State Police may charge:
(A) A reasonable fee not to exceed ten dollars ($10.00) for researching, copying, or mailing records from a child maltreatment investigative file; and
(B) A reasonable fee for reproducing copies of electronic media, such as audio tables, video tapes, compact discs, DVDs, and photographs.
(2) A fee may not be charged to:
(A) A nonprofit or volunteer agency that requests searches of the investigative files; or
(B) A person who is indigent.
(c)(1) The Department of Human Services shall not release data that would identify the person who made the report unless a court of competent jurisdiction orders release of the information after the court has reviewed in camera the record related to the report and has found it has reason to believe that the reporter knowingly made a false report.
(2) However, upon request, the information shall be disclosed to the prosecuting attorney or law enforcement.
(d)(1) Any person or agency to whom disclosure is made shall not disclose to any other person a report or other information obtained pursuant to this section.
(2) However, the person or agency is permitted to consult his or her or its own attorney regarding information provided by the Department of Human Services and the Division of Arkansas State Police.
(3) However, a local educational agency or a school counselor shall forward all true reports of child maltreatment received from the Department of Human Services and the Division of Arkansas State Police when a child transfers from one (1) local educational agency to another and shall notify the Department of Human Services and the Division of Arkansas State Police of the child's new school and address, if known.
(4) Nothing in this chapter shall be construed to prevent subsequent disclosure by the subject of the report.
(5) Confidential data, records, reports, or documents created, collected, or compiled by or on behalf of the Department of Human Services, the Division of Arkansas State Police, or other entity authorized under this chapter to perform investigations or provide services to children, individuals, or families may be:
(A) Disclosed to and discussed with a member of the Child Maltreatment Investigations Oversight Committee; and
(B) Disclosed and discussed in closed meetings conducted by the Child Maltreatment Investigations Oversight Committee under § 10-3-3201 et seq.
(e)(1) The Department of Human Services and the Division of Arkansas State Police may provide information, including protected health information, to a person or agency that provides services such as medical examination of, an assessment interview with, or diagnosis of, care for, treatment of, or supervision of a victim of child maltreatment, a juvenile offender, or an underaged juvenile offender.
(2) This information may include:
(A) The investigative determination or the investigation report; and
(B) The services offered and provided.
(f) If an alleged offender's name has been provisionally placed in the Child Maltreatment Central Registry, any disclosure by the registry shall include the notation that the name has only been provisionally placed in the registry.
(g) A report made under this chapter that is determined to be true, as well as any other information obtained, including protected health information and the administrative hearing decision, and a report written or photograph or radiological procedure taken concerning a true report in the possession of the Department of Human Services and the Division of Arkansas State Police shall be confidential and shall be made available only to:
(1) The administration of the adoption, foster care, children's and adult protective services programs, or child care licensing programs of any state;
(2) A federal, state, or local government entity, or any agent of the entity, having a need for the information in order to carry out its responsibilities under law to protect children from abuse or neglect;
(3) Any person who is the subject of a true report;
(4) A civil or administrative proceeding connected with the administration of the Arkansas child welfare state plan when the court or hearing officer determines that the information is necessary for the determination of an issue before the court or agency;
(5) An audit or similar activity conducted in connection with the administration of such a plan or program by any governmental agency that may by law conduct the audit or activity;
(6)(A) A person, agency, or organization engaged in a bona fide research or evaluation project having value as determined by the Department of Human Services and the Division of Arkansas State Police in future planning for programs for maltreated children or in developing policy directions.
(B) However, any confidential information provided for a research or evaluation project under this subdivision (g)(6) shall not be redisclosed.
(C) However, if a research or evaluation project results in the publication of related material, confidential information provided for a research or evaluation project under this subdivision (g)(6) shall not be disclosed;
(7) A properly constituted authority, including multidisciplinary teams referenced in this chapter, investigating a report of known or suspected child abuse or neglect or providing services to a child or family that is the subject of a report;
(8)(A) The Division of Child Care and Early Childhood Education and the child care facility owner or operator who requested the registry information through a signed notarized release from an individual who is a volunteer, has applied for

employment, is currently employed by a child care facility, or is the owner or operator of a child care facility.
(B) This disclosure shall be for the limited purpose of providing registry background information and shall indicate a true finding only;
(9) Child abuse citizen review panels described in the Child Abuse Prevention and Treatment Act, 42 U.S.C. § 5106a;
(10) Child fatality review panels as authorized by the Department of Human Services;
(11) A grand jury upon a finding that information in the record is necessary for the determination of an issue before the grand jury;
(12)(A) A court in a criminal case upon finding that the information in the record is necessary for the determination of an issue before the court.
(B) The court may disclose the report to parties under the terms of a protective order issued by the court;
(13)(A) A court in a child custody or similar civil case upon finding that the information in the record is necessary for the determination of a health or safety issue concerning a child before the court.
(B) The court may disclose the report to the parties under the terms or a protective order issued by the court;
(14) The current foster parents of a child who is a subject of a report;
(15)(A) Federal, state, and local government entities, or any agent of federal, state, or local government entities, that have a need for such information to carry out their responsibilities under law to protect children from child maltreatment.
(B) Acting in their official capacities under law to protect children, disclosure may be made to individual United States and Arkansas senators and representatives and their authorized staff members, but only if they agree not to permit any redisclosure of the information except for a legitimate state purpose to protect children from child maltreatment.
(C) However, disclosure shall not be made to any committee or legislative body of any information that identifies any recipient of services by name or address;
(16) A Court Appointed Special Advocates volunteer upon presentation of an order of appointment for a child who is a subject of a report;
(17) The attorney ad litem of a child who is the subject of a report;
(18)(A) An employer or volunteer agency for purposes of screening an employee, applicant, or volunteer who is or will be engaged in employment or activity with children, the elderly, individuals with disabilities, or individuals with mental illness upon submission of a signed, notarized release from the employee, applicant, or volunteer.
(B) The registry shall release only the following information on true reports to the employer or agency:
(i) That the employee, applicant, or volunteer has a true report;
(ii) The date the investigation was completed; and
(iii) The type of true report;
(19) The Division of Developmental Disabilities Services and the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services as to participants of the waiver program;
(20) The Division of Child Care and Early Childhood Education for purposes of enforcement of licensing laws and rules;
(21) Any licensing or registering authority to the extent necessary to carry out its official responsibilities;
(22) Any person or entity to whom notification was provided under this chapter;
(23) The extent necessary to carry out a responsibility to ensure that children are protected while in the school environment or during off-campus school activities:
(A) A school district superintendent, a person in an equivalent position in a private school, or other district-level administrator;
(B) A public school principal, a person in an equivalent position in a private school, or other building-level administrator;
(C)(i) Another person or organization designated by a public school, private school, or school district to organize volunteers for the public school, private school, or school district upon the submission of a signed, notarized release from the volunteer.
(ii) The registry shall release only the following information on true reports to a person or an organization:
(a) That the employee, applicant, or volunteer has a true report;
(b) The date the investigation was completed; and
(c) The type of true report; and
(D) Division of Elementary and Secondary Education;
(24) The custodial and noncustodial parents, guardians, and legal custodians of the child who is identified as the offender;
(25) Any family advocacy program or other person designated by the military authority for the military installation receiving notice of a Child Abuse Hotline report under § 12-18-508;
(26) The custodial parent, custodian, or guardian of a child who is or may be currently cared for or supervised by the offender; and
(27) A Child Welfare Ombudsman.

Use of Force

5-2-606. Use of Physical Force in defense of a person

(a)(1) A person is justified in using physical force upon another person to defend himself or herself or a third person from what the person reasonably believes to be the use or imminent use of unlawful physical force by that other person, and the person may use a degree of physical force that he or she reasonably believes to be necessary.
(2) However, the person may not use deadly physical force except as provided in § 5-2-607.
(b) A person is not justified in using physical force upon another person if:
(1) With purpose to cause physical injury or death to the other person, the person provokes the use of unlawful physical force by the other person;
(2)(A) The person is the initial aggressor.
(B) However, the initial aggressor's use of physical force upon another person is justifiable if:
(i) The initial aggressor in good faith withdraws from the encounter and effectively communicates to the other person his or her purpose to withdraw from the encounter; and
(ii) The other person continues or threatens to continue the use of unlawful physical force; or
(3) The physical force involved is the product of a combat by agreement not authorized by law.

(c) A person who uses or threatens to use physical force as otherwise permitted under this subchapter does not have a duty to retreat before using or threatening to use the physical force if the person is:
(1) Lawfully present in the location;
(2) Not engaged in criminal activity that gives rise to the need to use physical force; and
(3) Not engaged in any activity in furtherance of a criminal gang, organization, or enterprise as defined under § 5-74-103.

DEADLY FORCE

16-120-106. Use of Deadly Physical Force.
(a) A person is immune from civil action for the use of deadly physical force against another person who is an initial aggressor if the use of the deadly physical force was in accordance with A.C.A. § 5-2-607.
(b) A court shall award reasonable attorney's fees, costs, and trial-related expenses to a person in defense of a civil action brought by another person if the court finds that the person is immune from civil action as provided in this section.

5-2-607. Use of Deadly Physical Force in a Defense of a Person.
(a) A person is justified in using deadly physical force upon another person if the person reasonably believes that the other person is:
(1) Committing or about to commit a felony involving force or violence;
(2) Using or about to use unlawful deadly physical force; or
(3) Imminently endangering the person's life or imminently about to victimize the person as described in § 9-15-103 from the continuation of a pattern of domestic abuse.
(b) A person may not use deadly physical force in self-defense if the person knows that he or she can avoid the necessity of using deadly physical force:
(1)(A) By retreating.
(B) However, a person is not required to retreat if the person is:
(i) Unable to retreat with complete safety;
(ii) In the person's dwelling or on the curtilage surrounding the person's dwelling and was not the original aggressor; or
(iii) A law enforcement officer or a person assisting at the direction of a law enforcement officer; or
(2) With complete safety by surrendering possession of property to a person claiming a lawful right to possession of the property.
(c) As used in this section:
(1) "Curtilage" means the land adjoining a dwelling that is convenient for residential purposes and habitually used for residential purposes, but not necessarily enclosed, and includes an outbuilding that is directly and intimately connected with the dwelling and in close proximity to the dwelling; and
(2) "Domestic abuse" means:
(A) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members; or
(B) Any sexual conduct between family or household members, whether minors or adults, that constitutes a crime under the laws of this state.

5-2-615. Use of physical force by a pregnant woman in defense of her unborn child
a) As used in this section:
(1) "Pregnant" means the female reproductive condition of having an unborn child in the female's body; and
(2) "Unborn child" means the offspring of human beings from conception until birth.
(b) A pregnant woman is justified in using physical force or deadly physical force against another person to protect her unborn child if, under the circumstances as the pregnant woman reasonably believes them to be, she would be justified under § 5-2-606 or § 5-2-607 in using physical force or deadly physical force to protect herself against the unlawful physical force or unlawful deadly physical force she reasonably believes to be threatening her unborn child.
(c) The justification for using physical force or deadly physical force against another person to protect a pregnant woman's unborn child is not available if the use of the physical force or deadly physical force for protection was used by a person other than the pregnant woman.

5-65-111. Sentencing—Periods of Incarceration—Exception
(a)(1) A person who pleads guilty or nolo contendere to or is found guilty of violating § 5-65-103, for a first offense, upon conviction is guilty of an unclassified misdemeanor and may be imprisoned for not less than:
(A) Twenty-four (24) hours but no more than one (1) year; or
(B) Seven (7) days but no more than one (1) year if a passenger under sixteen (16) years of age was in the motor vehicle or motorboat at the time of the offense.
(2) The court may order public service instead of imprisonment and, if the court orders public service, the court shall include the reasons for the order of public service instead of imprisonment in the court's written order or judgment.
(b)(1) A person who pleads guilty or nolo contendere to or is found guilty of violating § 5-65-103 for a second offense occurring within ten (10) years of the first offense upon conviction is guilty of an unclassified misdemeanor and may be imprisoned for not less than:
(A) Seven (7) days but no more than one (1) year; or
(B) Thirty (30) days but no more than one (1) year if a passenger under sixteen (16) years of age was in the motor vehicle or motorboat at the time of the offense.
(2) The court may order public service instead of imprisonment in the following manner, and if the court orders public service, the court shall include the reasons for the order of public service instead of imprisonment in its written order or judgment:
(A) Not less than thirty (30) days; or
(B) Not less than sixty (60) days if a passenger under sixteen (16) years of age was in the motor vehicle or motorboat at the time of the offense.
(c)(1) A person who pleads guilty or nolo contendere to or is found guilty of violating § 5-65-103 for a third offense occurring within ten (10) years of the first offense upon conviction is guilty of an unclassified misdemeanor and may be imprisoned for not less than:
(A) Ninety (90) days but no more than one (1) year; or

(B) One hundred twenty (120) days but no more than one (1) year if a passenger under sixteen (16) years of age was in the motor vehicle or motorboat at the time of the offense.
(2) The court may order public service instead of imprisonment in the following manner, and if the court orders public service, the court shall include the reasons for the order of public service instead of imprisonment in its written order or judgment:
(A) Not less than ninety (90) days; or
(B) Not less than one hundred twenty (120) days if a passenger under sixteen (16) years of age was in the motor vehicle or motorboat at the time of the offense.
(d) A person who pleads guilty or nolo contendere to or is found guilty of violating § 5-65-103 for a fourth offense occurring within ten (10) years of the first offense upon conviction is guilty of an unclassified felony and may be imprisoned for not less than:
(1) One (1) year but no more than six (6) years; or
(2) Two (2) years but no more than six (6) years if a passenger under sixteen (16) years of age was in the motor vehicle or motorboat at the time of the offense.
(e) A person who pleads guilty or nolo contendere to or is found guilty of violating § 5-65-103 for a fifth or subsequent offense occurring within ten (10) years of the first offense upon conviction is guilty of an unclassified felony and may be imprisoned for no fewer than:
(1) Two (2) years but no more than ten (10) years; or
(2) Three (3) years but no more than ten (10) years if a passenger under sixteen (16) years of age was in the motor vehicle or motorboat at the time of the offense.
(f) A person who pleads guilty or nolo contendere to or is found guilty of violating § 5-65-103 for a sixth or subsequent offense occurring within twenty (20) years of the first offense upon conviction is guilty of a Class B felony.
(g) A certified judgment of conviction of driving or boating while intoxicated or other equivalent offense from another state or jurisdiction may be used to enhance the penalties as a previous offense under this section.
(h) For any arrest or offense occurring before the effective date of this act that has not reached a final disposition as to judgment in court, the offense shall be decided under the law in effect at the time the offense occurred, and the defendant is subject to the penalty provisions in effect at that time and not under the provisions of this section.
(i) It is an affirmative defense to prosecution under subdivisions (a)(1)(B), (b)(1)(B), (c)(1)(B), (d)(2), and (e)(2) of this section that the person operating or in actual physical control of the motor vehicle or motorboat was not more than two (2) years older than the passenger.
(j)(1) A prior conviction for § 5-10-105(a)(1)(A) or § 5-10-105(a)(1)(B) is considered a previous offense for purposes of this section.
(2) A prior conviction under former § 5-76-102 is considered a previous offense for purposes of this section only if the current offense is operating a motorboat on the waters of this state while intoxicated.

Penalties for Fleeing

5-54-125. Fleeing

(a) If a person knows that his or her immediate arrest or detention is being attempted by a duly authorized law enforcement officer, it is the lawful duty of the person to refrain from fleeing, either on foot or by means of any vehicle or conveyance.
(b) Fleeing is a separate offense and is not considered a lesser included offense or component offense with relation to other offenses which may occur simultaneously with the fleeing.
(c) Fleeing on foot is considered a Class C misdemeanor, except under the following conditions:
(1) If the defendant has been previously convicted of fleeing on foot anytime within the past one-year period, a subsequent fleeing on foot offense is a Class B misdemeanor;
(2) If property damage occurs as a direct result of the fleeing on foot, the fleeing on foot offense is a Class A misdemeanor; or
(3) If serious physical injury occurs to any person as a direct result of the fleeing on foot, the fleeing on foot offense is a Class D felony.
(d)(1)(A) Fleeing by means of any vehicle or conveyance is considered a Class A misdemeanor.
(B) A person convicted under subdivision (d)(1)(A) of this section shall serve a minimum of two (2) days in jail.
(C) A person convicted under subdivision (d)(1)(A) of this section who operated the vehicle or conveyance in excess of the posted speed limit shall serve a **minimum of thirty (30)** days in jail.
(2) Fleeing by means of any vehicle or conveyance is considered a **Class C** felony if, under circumstances manifesting extreme indifference to the value of human life, a person purposely operates the vehicle or conveyance in such a manner that creates a substantial danger of death or serious physical injury to another person.
(3) If serious physical injury to any person occurs as a direct result of fleeing by means of any vehicle or conveyance, the fleeing by means of any vehicle or conveyance offense is a **Class B** felony.
(e) In addition to any other penalty, if the defendant is convicted of violating subsection (d) of this section, the court shall instruct the Office of Driver Services of the Department of Finance and Administration to suspend or revoke the defendant's driver's license for at least six (6) months but not more than one (1) year.

Eligibility for Parole

16-93-609. Effect of more than one conviction for certain felonies

(a) Any person who commits murder in the first degree, § 5-10-102, rape, § 5-14-103, or aggravated robbery, § 5-12-103, subsequent to March 24, 1983, and who has previously been found guilty of or pleaded guilty or nolo contendere to murder in the first degree, § 5-10-102, rape, § 5-14-103, or aggravated robbery, § 5-12-103, shall not be eligible for release on parole by the Parole Board.
(b)(1) Any person who commits a violent felony offense or any felony sex offense subsequent to August 13, 2001, and who has previously been found guilty of or pleaded guilty or nolo contendere to any violent felony offense or any felony sex offense shall not be eligible for release on parole by the board.

(2) As used in this subsection, "a violent felony offense or any felony sex offense" means those offenses listed in § 5-4-501(d)(2).

(c) A person who commits the offense of possession of firearms by certain persons, § 5-73-103, in which the offense is under § 5-73-103(c)(1), after the effective date of this act, is not eligible for parole.

Chapter 13- Surviving the County Budget Process and the Financial Administration of the Sheriff's Office

Presented by Eddie A. Jones

-Don't dread the budget process. The process may be difficult and trying – but, the completion of the process is satisfying. And it is an extremely important part of county government operations.

-The budget process starts with revenue projecting. Revenue forecasting is not a guessing game. It is a "science" that must be executed with precision in order to establish a solid foundation for the county's finances.

- Formulating the counties revenue projections and completing a county budget is like putting all the pieces of a puzzle together. As you add the pieces it becomes easier to visualize the finished product- a county budget.

- One of the key points to be understood in the development of a county budget is that the budget, which represents expenditures, is only as good as the revenue projections on which it is based. It is extremely important to have accurate revenue projections. If you err – err on the side of conservatism.

- Arkansas law provides very little guidance for the county budget process. Because of the lack of state law guidance the budget process varied widely from county to county.

-Arkansas Code Annotated 14-14-904(b) does require the Quorum Court of each county to make an appropriation for the expenses of county government for the following year before the end of each fiscal year – which is December 31st for Arkansas county government.

- The process of finalizing revenue projections will take several weeks because of the many factors and variables to look at. Some of the elements to consider in projecting revenues include:

1) Previous year's history

2) Cyclical fluctuations

3) Pattern of growth or decline

4) Current and anticipated state economic conditions

5) Local economic conditions, including industrial growth or decline

6) New laws (state laws or county ordinances) that affect fees and/ or taxes

7) Sunset clauses tied to sources of revenue

-Revenues should be projected for each fund that the Quorum Court has appropriating control.

- The revenues of each fund are projected by source. Some funds have multiple sources of revenue while other funds have only a few sources.

- Revenues should be projected by month specific, i.e. January, February, March, etc., so that you can calculate cash flow month by month. The entire budget is NOT money in the bank at the first of the year and all capital expenditures cannot be made one time.

- One of the most vital pieces of the revenue projection process is projecting an accurate “carry-over cash balance”. The unencumbered carry-over cash balance is a part of the anticipated revenue for the following year’s budget for most counties.

- The counties of Arkansas operate on a calendar year basis from January 1st through December 31st [A.C.A. § 14-71-101].

- Just as a good set of “revenue projections” is the foundation for a good budget- the annual budget serves as the foundation for the county’s financial planning and financial control.

- A good county budget process can be summed up as a combination of leadership, collaboration and communication.

1) Leadership- someone has to be in charge [Normally the County Judge]

2) Collaboration- a group effort by county and district officials to get the job done

3) Communication- the driver of a good county budget process

- Four key groups should be engaged in the communication budget process:

1) The county elected officials- County officials should be met with regularly during budget time. They deserve the inclusion and they can be helpful in solving budget problems.

2) The county employees- There is little more that can destroy morale and productivity than uninformed employees endlessly discussing the negative outcomes of budget cuts.

3) The Quorum Court- The QC should receive updated pertinent financial information early and often during the budget process in order to make informed decisions- decision without unintended consequences.

4) The public- A communications plan should be developed that engages the local media. Consistently provide information and hold meetings with them to gain their perspective and gain their trust in the process.

- County government in Arkansas can only appropriate 90% of its annual anticipated revenue. We have operated under the 90% Rule since 1879 [A.C.A. § 14-20-103]. There are a few exceptions to the 90% limitation and they are:

5) A county can appropriate 100% of a federal or state grant.

6) Any county that is declared a disaster area by the Governor or the U.S. Government may appropriate in excess of the 90% anticipated revenues only as long as the amount in excess of 90% is used for costs directly related to or resulting from the natural disaster.

7) A county can appropriate up to 100% of a sales tax that has been dedicated by ballot title. This exception does not apply to dedicated sales taxes that have been pledged for bonds or to general sales taxes.

- Arkansas Code 14-20-103 promotes conservative budgeting; it is a tool for positive cash flow; and if properly used it provides a county with start-up cash for a new budget year.

- When all of the budget requests are in they are matched against the projected revenue available. More times than not there are many more dollars requested than revenue available so the cutting process starts.

- Always approach budget cuts on a “priority basis”. A.C.A. § 14-14-802 provides a list of services and functions that a county “must” provide and a list that a county “may” provide. Start the cuts in the “may” section. Although some of these services and functions may seem very important, they are not required by law.

- Remember that the Quorum Court appropriates the money. It is sometimes difficult for the executive branch and the legislative branch to work together. We tend to look at things from different perspectives. But, we must respect others. Different views force us to think. If we work to understand why others are expressing ideas that we find disagreeable – it will normally cause then to do the same. At that point you will be able to forge a workable compromise- a solution. Use a little diplomacy and wisdom.

- Take the time to create a realistic budget- a budget based on real numbers. Don't go for the quick easy-fix to budget problems, that usually only delays the inevitable and actually causes more and bigger problems down the road.

- The successful completion of a budget is due to many officials and employees who spent weeks going over every line item and carefully proposing a budget that maximizes county government performance.

- Specifically for the County Sheriff, your survival during the budget process may depend on your willingness to cooperate as a "team player" since it is your operation that requires a large percentage of the county's revenues.

- The Sheriff's office budget is normally one of many budgets funded by the general fund of the county- normally referred to as County General. The general fund has many sources of revenue- but the ones generated or collected by the Sheriff's office that are normally views as revenues to help offset the costs of the Sheriff's budget and the courts are circuit and district court fines and a portion of the sheriff's fees as set forth in A.C.A. § 21-6-307.

- The County Sheriff has several "Special Revenue" funds- such as the Communications Facility and Equipment Fund [A.C.A. § 21-6-307]; the Boating Safety Enforcement Fund or Emergency Rescue Fund [A.C.A. § 27-101-111]; the Drug Enforcement Fund [A.C.A. § 14-21-201 through 14-21-203]; the Drug Control Fund [A.C.A. § 5-64-505, A.C.A. § 29-30-160, A.C.A. § 12-17-105]; and possibly other that may have been established by county ordinance.

- Fees to be charged by the Sheriff are delineated in A.C.A. § 21-6-307. The Sheriff fees are divided 75% to County General and 25% to the Communications Facility and Equipment Fund. The moneys credited to the Communications Fund are restricted to certain types of expenditures. The uses of this source of revenue included to train communications operations staff; operate, equip, repair, or replace existing communications equipment; otherwise improve a communications facility or system for the sheriff's department; or purchase vehicles, weapons, or other equipment for the sheriff's department. At the discretion of the Sheriff, any funds in the Communications Facility and Equipment Fund not needed by the Sheriff may be transferred to the county general fund.

- Another source of revenue for the Communications Facility and Equipment Fund is the commission derived from prisoners telephone services provided in the county jail. One hundred percent (100%) of these commissions are to be credited to this fund [A.C.A. § 12-41-105]. However, the sheriff may allocate up to 75% of the commissions for the maintenance and operation of the county jail.

- A percentage of boat registration fees are credited to the County Aid Fund of the State and are then remitted to the County Treasurers for the Boating Safety and Enforcement Fund- if the Sheriff has established a patrol on the waterways within the county. Otherwise, the funds are credited to the County Emergency Rescue Fund for use exclusively by either the county or the cities within the county, or both, for operating and maintaining emergency rescue services [A.C.A. § 27-101-111].

- A county may provide the Sheriff with another special revenue fund- a Drug Enforcement Fund. For this fund to be established the quorum court must pass an ordinance establishing the fund and set a maximum balance for the fund – not to exceed $10,000. There are restrictions on how the fund can be used as found in A.C.A. § 14-21-201 through 203.

- Another one of the special revenue funds for use by the Sheriff is the Drug Control Fund as found in A.C.A. § 5-64-505. The drug Control Fund moneys come from the disposition of moneys in the Prosecutor's Asset Forfeiture Fund and can be used only "for law enforcement and prosecutorial purposes."

- County jail operations are one of the largest financial burdens on county governments in Arkansas. The two largest and most common revenue sources for jail operations are a dedicated sales tax, which must be approved by a vote of the electorate; and general funds of the county. Some of the other significant revenue sources for jail operations include:

1) The $20.00 booking and administration fee. Act 117 of 2007 amended A.C.A. § 12-41-505 to add a booking and administration fee of $20.00 to anyone convicted of a felony or a Class A misdemeanor. The fee is assessed on one of two ways. It is assessed upon conviction of a person and included the judgment entered by the court- or if the court suspends imposition of a sentence on the person or places the person on probation and does not enter a judgment of conviction, the court is to impose the booking and administration fee as a cost. The "booking fee", when settled on monthly by the Sheriff's office with the County Treasurer, is to be deposited into a special fund within the county treasury to be used exclusively for the county jail or regional detention center. The "special fund" can be a newly created special revenue fund – or if the county operated the jail out of a "special revenue" fund (not County General) it can be credited to that fund (i.e. County Jail Fund, County Detention Center Fund, etc.).

2) The additional fine of up to $20.00 to help defray jail expenses. Act 209 of 2009 amended A.C.A. § 16-17-129 so that a city and/ or county could, by ordinance, levy an additional fine not to exceed $20 to be collected from defendants in District Court to be used to defray jail expenses. Cities may not collect up to $20.00 in fine money on accounting one records (city cases), and counties may collect up to $20.00 on accounting one and two records (city and county cases). Counties should assess this fine in district court on both city and county cases- but only upon passage of an ordinance to levy the fine.

The revenue collected by the assessment of this fine can be used for: (1) the construction, maintenance, and operation of the city, county, or regional jail; (2) deferring the costs of, incarcerating county prisoners held by a county, a city, or any entity; (3) the transportation and incarceration of city or county prisoners; (4) the purchase and maintenance of equipment for the city, county, or regional jail; and (5) training, salaries, and certificate pay for jailers and deputy sheriffs. The only exception of these uses is that sums collected from this fine on "city cases" cannot be used for training salaries or certificate pay for deputy sheriffs.

- Although the County Sheriff is the chief law enforcement officer in the county – the sheriff has a lot of administrative duties as well. One of the administrative duties is financial administration over a large percentage of appropriated county funds. It is imperative for the Sheriff to learn county financial functions- especially as they relate to the operation of the sheriff's office and jail. It is vital to have qualified office personnel to handle the bookkeeping and accounting functions for the office. But it is also important for the Sheriff to have some understanding of the law and procedures for the financial functions of the office in order to understand what is going on and as an element of protection from fraud. Also, make sure that all of the bookkeeping and accounting functions are not handled by one person.

- As a beginning point, here are a few Arkansas codes that you should get familiar with in respect to the financial operation of your office.

1. County Accounting Law

A.C.A. § 14-25-102 concerns the proper establishment of bank accounts.

A.C.A. § 14-25-103 deals with the proper deposit of funds.

A.C.A. § 12-25-104 requires prenumbered checks; a requirement to retain voided checks for audit purposes; and minimum requirements for information that should be included on an issued check.

A.C.A. § 14-25-105 delineates the proper method for the establishment and operation of a petty cash fund.

A.C.A. § 14-25-106 established the requirements for fixed asset records.

A.C.A. § 14-25-107 requires the proper reconciliation of all bank accounts.

A.C.A. § 14-25-108 requires prenumbered receipts; sets for the minimum information that should be included on each item receipted; requires all copies of voided receipts be retained for audit purposes.

A.C.A. § 14-25-112 established the bookkeeping requirements of the Sheriff's office.

2. County Officer Fees

A.C.A. § 21-6-307 delineates the various fees to be charged by the sheriffs of the 75 counties in Arkansas with 75% of the fees being paid into the county general fund and 25% used by the sheriffs in the communications facility and equipment fund.

3. Settlement of Moneys Collected

A.C.A. § 26-39-201 establishes the time for payment of moneys collected by each county official. A.C.A. § 26-39-201(a)(1) says, "The county clerk and probate clerk, circuit clerk, constables, county sheriff, county collector, and any other county official in the State of Arkansas are required to pay over to the county treasurer of each county on the first of each month, or within ten (10) working days thereafter, all funds in each of their hands .belonging to the county or its subdivisions that are by law required to be paid into the county treasury, whether taxes, fines, or any moneys that are collected for any purpose by law and belonging to the county." [Amended from five (5) days to ten (10) days by Act 617 of 2011.]

A.C.A. § 21-6-310 also sets forth the time for the disposition of funds collected by county officials. This code is in the section of law dealing with fees of the county officials. A.C.A. § 21-6-210(a) says, "All fees, fines, penalties, and other moneys collected by any county officer, deputy, or county employee shall be deposited with the county treasurer on the first day of each month or within five (5) days thereafter, and, unless otherwise provided by law, shall be placed in the county general fund." [This code was not amended in 2011 – but since 26-39-201 is the latest amended law and now conflicts with 21-6-310, the latest change in the law contained in 26-39-201 is the prevailing code. A.C.A. § 21-6-210 is slated for amendment in the 2013 legislative session so that it will mirror 26-39-201.]

Law enforcement protection services and the custody of persons accused or convicted of crimes is an essential and mandated service of county government [A.C.A. § 14-14-802(a)(2)]. It is also a service that requires large financial resources – a large percentage of each county's total budget. Therefore, it is incumbent upon the elected County Sheriff to be or become a savvy financial administrator and to hire personnel requisite of the responsibility.

When it comes to the budget or any other responsibility of the County Sheriff and for you that's the enforcement of the law, the incarceration of those who offend, and administration of personnel and the budget and finances of your department – it is your responsibility to do it and do it right. Confucius said, "What I hear, I forget; what I see, I

remember; what I do, I understand." When you work with the budget process and administer the budget and finances of your department- you'll more clearly understand it.

Give your all as an elected county official. That's what it takes to survive and be the official you need to be!

CREED OF THE PUBLIC SERVANT

I am a public official… a position held by a few hundred thousand among America's hundreds of millions.

Chosen to lead, I am empowered to act in the public interest.

Now and then judged wrongfully, sometimes toasted, and sometimes roasted. Yet, having taken counsel and pondered, I shall move forward.

My compensation goes beyond a fair salary: it is to serve in a profession where professional training is not always required, but where character, candor and honesty are prerequisites.

While thousands died from wounds suffered at Yorktown and Gettysburg, I too am wounded many times. My wounds are no less mortal; they are for self-government. Each is fabric of freedom's flag.

After I have spent my energy and raised my voice, I will in the spirit of a democratic republic move over so that others my carry on. May god show me how!

Chapter 14 – ATTORNEY GENERAL OPINIONS

AND COUNTY LINES ARTICLES

Personnel Records:

The Attorney General's Office has created a body of opinions concerning the Freedom of Information Act ("FOIA") in application to county offices and public records of county officials. The subject of the request and the published opinion by number are provided below. These opinions may greatly assist the office in your county in making decisions concerning the FOIA. You may review and retrieve the entire opinion identified by going to the Attorney General's website: http://www.arkansasag.gov/opinions/. Additionally, this section provides other helpful Attorney General opinions regarding the elected position discussed in this manual.

County Regional Detention Facility Records
See Ops. Att'y Gen. 2007-226 (Personnel records)

Sheriff's Records
See Ops. Att'y Gen. 2006-096 (Budget)
See Ops. Att'y Gen. 2001-086 (FOIA inspection times)
See Ops. Att'y Gen. 2001-352 (Sheriff's Ranches)
See Ops. Att'y Gen. 2000-232 (Personnel records)
See Ops. Att'y Gen. 2000-257 (Personnel records)
See Ops. Att'y Gen. 2002-005 (Personnel records)
See Ops. Att'y Gen. 2003-201 (Personnel records)
See Ops. Att'y Gen. 2004-212 (Personnel records)
See Ops. Att'y Gen. 2008-053 (Personnel records)
See Ops. Att'y Gen. 97-063 (Personnel records)
See Ops. Att'y Gen. 98-202 (Personnel records)
See Ops. Att'y Gen. 2016-095 (Disclosure standards)

911 Dispatch Centers Records
See Ops. Att'y Gen. 2002-064 (Law Enforcement records)
See Ops. Att'y Gen. 2005-259 (Cassette tapes)

FOIA Generally
See Ops. Att'y Gen. 2003-006 (Application of ACA 25-19-108 to counties)
See Ops. Att'y Gen. 2005-298 (Response to absence of records)
See Ops. Att'y Gen. 2008-162 (Digital pictures of records)
See Ops. Att'y Gen. 99-134 (Records on county web site/fees)
See Ops. Att'y Gen. 2000-096 (Discussion of "meetings" under FOIA)
See Ops. Att'y Gen. 2001-382 (Location/Access to meetings)
See Ops. Att'y Gen. 2002-092 (Meetings)

FOIA – Personnel Records Generally
See Ops. Att'y Gen. 2018-007 (Previous Employment)
See Ops. Att'y Gen. 1999-398 (Job applications and resumes)
See Ops. Att'y Gen. 2000-058 (Harassment complaints)
See Ops. Att'y Gen. 2000-201 (Internal affairs investigatory files)
See Ops. Att'y Gen. 2000-242 (Suspension letters)
See Ops. Att'y Gen. 2001-130 (Access)
See Ops. Att'y Gen. 2001-368 (Employee objections to release)
See Ops. Att'y Gen. 2002-043 (Payroll, status change, benefits package information)

See Ops. Att'y Gen. 2003-055 (Privacy interests)
See Ops. Att'y Gen. 2003-352 (Time cards)
See Ops. Att'y Gen. 99-168 (Notification to subject of records)

Other Attorney General Opinions

Attorney General Opinion No. 2013-096: A prosecuting attorney may, at his election, prosecute city misdemeanors but he is not obligated to do so. A prosecuting attorney is not authorized to prosecute violations of municipal ordinances or traffic laws not defined by the Criminal Code. Prosecuting attorneys have never had authority to prosecute violations of city ordinances. ACA 16-21-103 provides that prosecuting attorneys' jurisdiction encompasses only state and county matters; and explicitly provides: "Each prosecuting attorney shall commence and prosecute all criminal actions in which the state or any county in his district may be concerned". In respect to misdemeanor violations of state laws ACA 16-21-150 provides that "no prosecuting attorney shall prosecute city misdemeanor cases or appeals to circuit court unless the prosecuting attorney consents to do so". A city attorney is charged with responsibility to commence and prosecute: misdemeanor violations of state statutes; traffic violations not defined by the Criminal Code; and violations of ordinances enacted by the city. So, a city attorney is obligated to prosecute state law misdemeanors that occur inside the city unless the prosecuting attorney elects to do so. The city attorney is obligated to commence and prosecute traffic violations not defined by the Criminal Code and violations of municipal ordinances.

Attorney General Opinion No. 2013-126: Act 1183 of 2013, codified as ACA 12-6-402, directs each law enforcement agency of the state to establish a policy prohibiting civilian passengers in patrol vehicles unless specific written approval is given by the chief law enforcement officer or his or her designee. The AG explained that the law is intended to give each law enforcement agency some discretion in the scope and application of its own policy by arriving at a definition for the term "civilian passengers". Accordingly some agencies may define the term to be limited to "ride-alongs"-persons that ride in patrol vehicles for purposes that may be legitimate but whose transportation is not an inescapable part of law enforcement like arrestees. The AG also concluded the act did not explicitly or by implication create any new causes of action against or liabilities on the part of a law enforcement agency that would not exist before the act in respect to civilian passenger for an injury while riding in a patrol car. {The Act applies only to law enforcement agencies of the state. However, many counties have vehicle use policies including use of patrol cars}.

Attorney General Opinion No. 2011-128: The Attorney General determined that circuit court was not authorized under current law to set up diversion pre-adjudication program such as a "work court" that is not specifically authorized by law. A "work court" is a pre-adjudication court in which the offender agrees to a wage assignment for fines, court costs, fees and restitution. The AG explained that design of a pre-adjudication program such as a "work court" is a legislative function. The law currently provides for "drug court" and a diversion of juvenile delinquency and family-in-need-of-services cases, but not a work court. The court has inherent authority to fashion remedies after jurisdiction is invoked, not before. Also, a circuit court may not assess fees or collect court costs other than those provided by law. The AG further advised that creation of such a program would fall outside the local legislative authority of counties under Amendment 55; and that the determination of criminal punishment and powers of Circuit Courts are not matters for local county legislative authority.

Attorney General Opinion No. 2011-143: The AG found that district courts and district court clerks are authorized to issue writs of execution to enforce its own judgments. He determined that district courts are court of record; and the court that issued a judgment in a county is proper court to issue a writ of execution. ACA 16-66-109 provides that executions issued upon any judgment rendered in any court of record may be directed to and executed in any county in this state without first procuring an order of the court for that purpose. However, no judgment is a lien on land owned by the defendant in a county other than the county in which the judgment is rendered until a certified copy of the judgment is filed with the circuit clerk in which the land is situated pursuant to ACA 16-65-117(b)(1). The recorded and indexed judgment shall constitute a lien upon the lands from the date it is recorded for a period of (10) ten years (and for an additional (10) ten years if revived) and notice to all persons

which do not have actual notice of the rendition of the judgment. A writ of execution is a command to the sheriff to take possession of the property of the judgment debtor. A sheriff is an officer of the courts in his or her county and must comply with a writ of execution issued by a circuit court or district court in his county. A sheriff is obligated to serve writs of district courts and circuit courts of other counties, however, as noted previously the exception that a judgment must be filed, recorded and indexed in accordance with ACA 16-65-177(b)(1) to constitute lien on the lands of the debtor located in a county other than the county in which the judgment was rendered.

Attorney General Opinion No. 2011-164: The Attorney General addressed the circumstances in which a county may refuse to keep the prisoners of an incorporated town. Generally, counties may issue citations and release city prisoners or misdemeanants under Rule 5.2 of the Arkansas Rules of Criminal Procedure. Also, ACA 12-5-1-503 may refuse to keep a prisoner in management of the prison population capacity under the Constitutions and laws of the United States and State of Arkansas. The fact that an unincorporated town has a Marshall as opposed to a police chief has no impact on these laws, the Arkansas Rules of Criminal Procedure or jail management authorities vested in the sheriff or keepers of jails in Arkansas.

Attorney General Opinion No. 2010-084: The Attorney General determined that the county has authority to a nighttime curfew for juveniles. A county may enact a daytime curfew as well, but there are plausible arguments to the contrary. However, absent a municipality's consent and agreement, a county has clear and unequivocal authority to enforce its juvenile curfew ordinance only in unincorporated areas. The county may not legislate in an area of authority that is within the scope of powers and jurisdiction of a municipality, unless the city agrees.

Attorney General Opinion No. 2010-127: A sheriff may be reimbursed for using a personal airplane to extradite out-of-state county prisoners back to the county. ACA 14-14-1207(a) authorizes the quorum court to make reimbursements for discretionary expenses under an appropriation. A demand for reimbursement depends on whether the official function is discretionary or non-discretionary. A sheriff would be prudent to have an appropriation in place before seeking reimbursement.

Attorney General Opinion No. 2012-088: Most fees charged by sheriffs in civil and criminal proceedings are found under ACA 21-6-307. ACA 16-90-113 directs that costs and fees charged upon a criminal shall be set forth in the judgment of conviction. Fees assessed in criminal cases are collected as part of the judgment of conviction and paid by the convicted criminal defendant. Civil fees set forth under ACA 21-6-307 are mandatory fees to be charged by the sheriff's office for services rendered by his deputies. Fees in civil cases include such civil processes as serving and returning summons, subpoenas, writs of execution, writs of garnishment, etc.; and fees for posting of notices. Generally, fees in civil cases are collected up front prior to render service or withheld such as the commission for sale upon execution. Commissions for selling property levied upon for execution are (10%) ten percent of the sale price. Sheriffs perform valuable services in civil process and the fees under ACA 21-6-307 are distributed (75%) Seventy-five percent of to the county treasurer for the county general fund and (25%) twenty-five percent shall remain with the sheriff's communication and facility fund. Civil attorneys may seek reimbursement of costs from the defendant party in the civil judgment.

Attorney General Opinion No. 2012-117: A custodian or requesting party seeking to ascertain whether a custodian's decision is consistent with the FOIA under ACA 25-19-105(c) must supply the AG with: (a) a copy of the request or what records specifically are being requested; (b) what records, if any, the custodian intends to release; and (c) what factual determinations went into both the custodian analysis or the requesting party's position. Frequently, the AG is not provided any of the foregoing necessary information and is unable to determine whether the decision of the custodian is consistent with the FOIA. Similarly, under Attorney General Opinion No. 2012-113 the AG was unable to determine if the custodian was acting consistent with the FOIA because no party supplied the documents or information required as explained by Attorney General Opinion No. 2012-117, above. There was apparently blanket request to the former employer for the release of the entire employment file of a former employee. There was apparently a blanket response by the employee that the request was an unwarranted invasion of privacy. Parties seeking rulings by the AG under must supply the necessary information. Under Attorney General Opinion No. 2012-115 the custodian supplied the proper documents and information and was deemed correct in releasing the interview questions submitted to applicants. However, the public has an interests in knowing the most qualified applicant was hired and therefore the scores of the person hired to the interview questions should be released and not redacted. Attorney General Opinion No. 2012-123 the AG determined from

submission of the necessary information that the custodian's decision to not release an employee evaluation that did not according to the custodian play a part in the subject termination. Under Attorney General Opinion No. 2012-144 the AG agreed with the custodian's decision to release a transcription of two emails by a former employee, one to department heads and one to the employees generally, tendering his resignation. However, the Ag found that the redactions made by the custodian were inconsistent with the FOIA. Resignation letters are generally subject to release under the FOIA, however, the custodian may be able redact certain information as an unwarranted invasion of privacy. Because the two resignation letters were not provided and the release of information to the requesting party was a transcription of the two emails, the AG could not determine that the custodian acted inconsistent with the FOIA. At a minimum the amount of information deleted shall be indicated on the released portion of the record, and if feasible at the place the redaction was made. The use of a transcription was inconsistent with these methods of disclosure and redaction under the FIOA.

Attorney General Opinion No. 2012-058: This opinion reveals that the Board of Corrections is in the process of adopting regulations to implement, ACT 570 of 2011, the "Public Safety Improvement Act". ACA 16-93-711 subsection D deals with the monitoring of inmates after serving 120 days of their sentence but does not specifically require the offender to pay the costs of electronic monitoring. ACA 16-93-1205 allows the receipt of compensation from fees or from other available sources for participating in a community correction program. The contract provides the costs to the offender will be $2.37 per day or $219.30 for 90 days. With this background, the Attorney General found that the Board of Corrections could adopt rules assessing the fee, as a front-end loaded fee, upon the offender for participating in a community corrections program. However, the Attorney General cautioned the Board of Corrections about adopting a rule that denied indigent parolees access to the community correction programs which require electronic monitoring, if the denial is based solely on the inability of the indigent to pay the front-end loaded fee. He cited Attorney General Opinion No. 2008-0 153 which opined that the refusal of a court to consider probation as a sentencing option purely because of their status as indigents may be subject to challenge for violation of the Equal Protection Clause guarantees set forth in the 14th Amendment of the United States Constitution and Sections 2 and 3 of Article 2 of the Arkansas Constitution.

Attorney General Opinion No. 2012-112: Upon request, it is the duty of the Attorney General to determine if a decision of a custodian is consistent with the FOIA. The AG says that records generated as part of an investigation may be considered employee evaluations or job performance records and may be exempt from release under the FOIA and may constitute an unwarranted invasion of privacy. The Attorney General's office and commentators have typically classified that personnel files typically include: employment applications, school transcripts, payroll-related documents such as re-classifications, promotions, demotions, transfer records, health and life insurance forms, performance evaluations, recommendation letters, etc. However, notwithstanding the exemption, ACA 25-19-105(c)(1) provides that employee evaluations may be subject to release upon final administrative resolution of any suspension or termination at which the records form a basis for the decision to suspend or terminate the employee and there is a compelling public interest. Compelling public interests involve violations of public trust or gross incompetence; the existence of a public controversy; and the employees position within the agency. Custodians may consistent with the FOIA clearly withhold employee evaluations of low level employees not suspended or terminated. However, in the context of law enforcement officers, the level or ranking of the employee has less weight and the public interest is greater. Whether or not an employee was directly or indirectly involved in an incident is relevant and may turn on whether there are allegations of a single event or multiple events. See also: Attorney General Opinions 2012-105.

Attorney General Opinions: 2012-111, 2012-110, 2011-156 and 2011-058: Reflect disclosure of the names of county employees or list of county employees is generally not protected. The AG has explained that the General Assembly has refrained from establishing a protection from releasing an employee's name on the basis of "harassment exception" or "increased risk of harm exception".

Attorney General Opinion 2012-071: Under Arkansas law convicted felons are prohibited from possessing or owning firearms. However, Drug Courts are pre-adjudication courts and are not convicted provided they comply with the terms of participation. So, participation in a drug court program does not amount to the conviction of a felony or a prohibition from possessing or owning firearms.

Attorney General Opinion No. 2012-143: The Workers Compensation Commission determines whether an employer qualifies as an "extra-hazardous" employer. ACA 11-10-314 provides an exemption for disclosure of the confidential data filed with the Workforce Services Commission concerning "extra-hazardous" employer status. This exception is located under a separate section of the Arkansas Code from the FOIA, Freedom of Information Act, ACA 25-19-101 et seq. The AG noted that in 2009 the General Assembly attempted to mandate that creation of any new record or public meeting exceptions to the FOIA after July 1, 2009 must explicitly state that the record or meeting is exempt from the FOIA, ACA 25-19-10 et seq. The exception to the FOIA under ACA 11-10-314 is clearly valid since it was adopted prior to July 1, 2009. However, the AG noted that attempts by the legislature to bind subsequent legislatures are called "entrenchment rules"; and that the validity of the 2009 entrenchment rule on the FOIA is questionable.

During the 2013 regular session Act 411 of 2013 explicitly amended the FOIA, Freedom of Information Act, ACA § 25-19-105(b)(13), concerning examination and copying of public records to protect the personal contact information of nonelected government employees. The amendment specifically exempts from disclosure home or mobile telephone numbers, personal email addresses, and home addresses of nonelected county or government employees. Act 411 seeks to protect privacy of nonelected employees and is effective August 16th as per ATTORNEY GENERAL OPINION NO. 2013-049.

Attorney General Opinion No. 2013-13: A person or entity may prohibit the carry of concealed firearms into a place by posting in accordance with ACA 5-73-306(19)(A). The AG opined that a city may prohibit the carry of concealed firearms onto city property by posting signs in accordance with ACA 5-73-306(19)(A). However, the AG determined that a prohibited place does not necessarily include a city street or sidewalk. The AG opined that a public street or sidewalk is not a defined place, is not plausible for posting signage and not a terminus as distinct from the area designated as a right-of-way for access the terminus. The law explicitly says that a license to conceal carry does not authorize a person to carry a firearm into various places. Some of the places that conceal carry of a fire arm are prohibited include: a police station or sheriff station, a jail or detention facility, a courthouse or courtroom (with exceptions), a polling place, a meeting place of a governing body of any governmental entity, any athletic event not related to firearms, any place where carrying a firearm is prohibited by federal law, and any parade or demonstration requiring a permit.

Attorney General Opinion No. 2010-169: The Attorney General made clear that under the Freedom of Information Act a county assessor or public official may not charge citizens of Arkansas for access and copies to public records on a website maintained by the assessor and not charge county residents. The plan of the custodian to eliminate the fee based solely on whether the persons making the request are in-county residents is inconsistent with the Freedom of Information Act.

Attorney General Opinion No. 2010-004: Juveniles determined by a court to be part of a "family in need of services" ("FINS") may be ordered to be detained in a juvenile detention facility and the court order may direct that the FINS juvenile be detained separate from juveniles charged or adjudicated to be delinquents. When so ordered, it is not necessary that the FINS juveniles be so separated that they cannot hear or see delinquent juveniles. In contrast, ACA 9-27-336 provides that juveniles alleged to have committed delinquent acts may be held in an adult jail or lock-up provided they are separated b sight and sound from adults who are pretrial detainees or convicted persons. ACA 9-27-336 also provides that FINS juveniles detained for violating a court order may not be held in adult facilities. It stands to reason and the law does not state or mean that FINS juveniles held separate must be separated by sight and sound by delinquent juveniles.

Attorney General Opinion No. 2013-052 & 2013-058: The AG interpreted laws about transportation of inmates. The AG concluded in AG Op 2013-052 that the sheriff is responsible for taking a back-up inmate from the county jail to the Arkansas Department of Corrections ("ADC") once ADC bed space is available. The AG determined that the $28 per day reimbursement for state inmates backed-up in the county jail awaiting transportation to the ADC

in 2011 explicitly included as a component the costs of the sheriff transporting the state inmate to the ADC. The costs study and 2003 substantive law, Act 370 of 2003, ACA 12-27114 declared that the reimbursement rate shall include transportation of the back-up inmates by the sheriffs to the ADC. {It should be noted that there is no dispute the county inmate costs far exceed the sum arrived at over dozen years ago}. The AG concluded in AG Op 2013-058 that a county with no operating jail may not transport their prisoners to a jail or prison located outside Arkansas. ACA The law limits the sheriff to transporting inmates to "some other jail located in this state", except for juvenile detentions. Also, ACA 12-49-102, the Interstate Corrections Compact, clearly authorizes state, but not local governments to transport their inmates for detention in prisons or jails in other states.

Attorney General Opinion No. 2013-060: The AG agreed with the opinion of the Arkansas State Police, that All-Terrain Vehicles ("ATVs") are not empowered if they meet safety equipment requirements under ACA 27-21-102 to generally operate on Arkansas streets and highways. The AG determined that operation of an ATV's upon streets and highways in Arkansas under ACA 27-21-106 is generally unlawful and restrict except for certain circumstances such as farming operations to go from one field to another or from trailhead to trailhead under ACA 27-21-109. The AG explained an ATV modified to comply with automobile safety requirements vehicle remains an ATV.

Attorney General Opinion No. 2010-069: This opinion differentiates the differences between navigable streams or lakes and private streams or lakes. Landowners with a private lake on their properties may post them against trespassers and the posting may subject those that go unto and remain on the "premises" to prosecution for criminal trespass. This includes the private lake surface. Failure to post a private lake or stream for trespassing may defeat an action for criminal trespass. In contrast, navigable streams and waters are owned collectively and trespass actions may not rest.

Attorney General Opinion No. 2010-096: ACA § 12-41-505 provides that every person who may be committed to the "common jail" of the county by lawful authority for any criminal offense or misdemeanor, if convicted, shall pay the expenses of carrying him or her to jail and also for his or her support from the initial day of incarceration for the whole time the prisoner remains there. The term "common jail" includes not just county jails but also a facility which holds the prisoners for law enforcement in the county which is operated by a city. The county may support fees by ordinance (commonly referred to as "pay for stay") even if the city operates the detention center including a daily housing fee and medical expenses, such as inmate medical co-pay. These expenses should be included in the judgment of conviction and subject to court approval.

Attorney General Opinion No. 2010-101: Does ACA § 16-94-103 mandate that a person being held in custody in Arkansas is not required to be brought before a court of record to formally execute a voluntary waiver of extradition to another state holding the arrest warrant.? No. The Attorney General determined under the majority view law affords alleged fugitives the ability to waive their extradition rights either formally or informally.

Attorney General Opinion No. 2011-159: The sheriff is considered "the executive arm of the court" and must obey its orders or risk being found in contempt. One of the sheriff's duties is to follow the procedures outlined in writs of assistance. There is only one statute that refers to writs of assistance (A.C.A § 18-50-107) but there is considerable case law which outlines some general rules law enforcement must follow absent contradictory language in the particular writ. A sheriff may use force in executing a writ of assistance which is "reasonably necessary" to take possession of the property and expel anyone not entitled to possession. The delivery of the writ must be "effectual, and not formal," meaning that the delivery must actually expel those not entitled to the property instead of just being a mere formality. Sheriffs are also entitled to remove all locks or other physical barriers meant to prevent entry upon the property and may also physically restrain the defendants or anyone else attempting to prevent the sheriff from executing the writ.

Attorney General Opinion No. 2014-081: With exception to employment contracts within the sheriff's department, a sheriff may not contract on behalf of the county on her own authority alone. So, the sheriff's signature is not required to bind the county to a written agreement, even if it pertains to a financial agreement regarding the county jail. The sheriff "unquestionably" has control of the county jail, which includes "managing the populations and operations of the jail" but may not unilaterally make decisions regarding the financial terms of running the jail.

Attorney General Opinion No. 2007-240: A sheriff may not, of his or her own discretion, choose to issue a bond to release an individual in the custody of law enforcement. Likewise, a sheriff does not have authority to determine at his or her own discretion the amount of bond required to release an individual on bail. The duty to set the amount of bail rests solely with a competent court or magistrate. However, under certain circumstances, the sheriff may have authority to accept a bond that has been properly authorized by the judiciary for the release of an individual. There is no additional statutory authorization for a sheriff to charge a fee to an individual being released on their own recognizance, meaning in lieu of money bail or bond.

Attorney General Opinion No. 2001-067: If a county sheriff resigns during the first twelve months after election, the quorum court appoints a new sheriff to fill the vacancy. The new appointee should then serve for the rest of the unexpired portion of the term he or she fills.

Attorney General Opinion No. 2010-156: A person may not serve as a deputy sheriff or reserve deputy and a justice of the peace concurrently because of the conflicts of interest present in each position.

County Lines Articles:

State's 911 system needs to be studied

By: Josh Curtis
Governmental Affairs Director

Act 1171 of 2013 created the Blue Ribbon Committee on Local 911 Systems. This committee studied 911 for more than a year and in December of 2014 provided recommendations to then Governor Beebe and the legislature. The committee stated, "The state's 911 system can no longer be funded through wired lines as 911 calls in Arkansas are overwhelmingly wireless". Think about this, before cell phones there may be one or two 911 calls for a car wreck, someone would run into the closest business and dial 911. Now every motorist that passes by dials 911 and each call has to be answered and taken as serious as the next. A 911 operator has to be present to answer all these calls. This means staffing has been increased to accommodate the use of cell phones.

The state levies a $0.65 user fee on cell phones per month, each person with a cell phone pays $7.80 a year for 911 services. In 2015 this fee generated $18,957,120.76, and this amount was split between over 130 Public Safety Answering Points (PSAP's) across the state. The national average for the 911 user fee is approximately $0.95 so most Americans pay around $11.40 for 911 services per year.

Another source for 911 dedicated revenue is from wireline tariffs. In 2015 this revenue generated from wireline phones totaled $7,390,852.52. Wireline revenues have decreased significantly over the past years but should plateau since most people have already tossed out their landline. Most of the landlines exist from businesses.

The last source of dedicated revenue for Arkansas' 911 system comes in the form of legislation passed in 2013. Act 442 of 2013 known as the "Telecommunications Regulatory Reform Act of 2013" provides additional funding for county operated PSAP's. This act directed $2,000,000 to counties using a formula that provided more funding to the smaller counties. This is a flat amount that does not grow from year to year.

The Tax Foundation released a study in October that said Arkansas is the ninth highest taxed state for wireless services. If you look at your cell phone bill you will find out that you also pay sales tax to your provider. The state sales tax collected on cell phone service is treated no differently than the regular sales tax. The state sales tax collections of 6.5% are distributed as follows: 4.5% General Revenue, 0.875% Educational, Adequacy Fund, 0.5% Property Tax Relief Trust Fund, 0.5% Highway Fund, 0.125% Conservation Fund. As you can see none of this revenue is dedicated to 911 services. The lower taxed states have more dedicated revenue directed to 911 services. For instance Tennessee and Mississippi 911 user fee is set at $1.00, $.35 higher than Arkansas. Should a portion of this sales tax be diverted to 911 services?

In 2015 there were approximately 2,345,304 911 calls to 911 centers in Arkansas. 90% of these calls were made using a cell phone. 67% of the dedicated revenue comes from the wireless user fee. The other 10% of the calls were from landlines which accounts for 26% of the dedicated revenue. The number that the counties focus on is $20,821,055.76, this is the amount that the counties and cities are supplementing for 911 operations.

The "Criminal Justice Reform Act of 2015" allowed the Governor and the Legislature to appoint the Legislative Criminal Justice Oversight Task Force. This task force and Governor Hutchinson brought in The Council of State Government (CSG) to perform an outside non bias study of Arkansas' criminal justice system. CSG worked with all the stakeholders in the criminal justice system and has delivered recommendations to the task force. The majority of these recommendations are supported by the majority of the stakeholders. Most legislators believe these recommendations will be supported in the upcoming session and be enacted into law. A subcommittee of the 911 Blue Ribbon committee has recommended a study such as this for Arkansas's 911 system. For something to change an outside group should come in and bring all the stakeholders together to talk about reforming the system.

One subject that should be studied and reviewed is how many Public Safety Answering Points (PSAP) are adequate for Arkansas. There are 132 PSAP's in Arkansas, is that too many? The County Judges Association of Arkansas voted earlier this year to support a bill that places a moratorium on new PSAP's. This is a bill the Judges will propose in the upcoming session to coincide with a study of our 911 system.

Another issue is technology, the Governor and the Legislature are always looking for ways to Increase technology to improve inefficiencies and possibly save money. I can get on my phone right now, push a button and have an Uber car pick me up within a few minutes. I wouldn't have to give my location and the driver would know exactly where I was from the technology on my smart phone. Someone said if Uber can find you that easy why cant 911. People can argue that Uber is only in the highly populated areas of the state and there isn't a demand for it statewide. That's a fair argument but there is a high demand for 911 services statewide. If Uber can use this technology in downtown Little Rock why can't 911 use something like this to better serve Arkansans all across the state.

Next Generation 911 (NG911) is an Internet Protocol (IP)-based system that allows digital information (e.g., voice, photos, videos, text messages) to flow seamlessly from the public, through the 911 network, and on to emergency responders. This is technology that will improve communication and save lives because of faster response times. Is Arkansas ready for this technology? Another topic the outside consultant should look at is training for dispatchers. The turnover rate for 911 dispatchers is normally one of the highest for a county. What can we do to minimize the turnover rate?

The news normally opens the show with "good evening" and then tells you everything wrong with the world. This day and time law enforcement has to be perfect with every decision they make. The media likes to point out when one law enforcement officer makes one mistake and it's magnified. 911 is far from perfect but there are places in the state that comes very close and the rest of the state can learn from them. Citizens in Calhoun County deserve the same service as citizens in Benton County. Now we all know the response time cannot be the same for all Arkansans because not everyone is the same distance from a fire station or a hospital. One thing that should be consistent is the reaction time. When you pick up the phone and dial 911 the fire truck or the ambulance should leave their post around the same time whether you make the call from Benton or Calhoun County.

Going into the 91st General Assembly, every legislator has heard many wants and or needs from multiple constituencies. So how does the legislature maneuver these needs and how important is 911? Many people believe public safety is the number one job incumbent on our government. This legislature supports our men and women in uniform and the job they do to keep us safe each day. If you ask an officer what their most important tool they use is, just about all of them say communication. That starts as soon as someone dials those three digits.

What County Officials need to know about Emergency Management Preparedness

By: Blake Gary
AAC Law Clerk

Within the last decade, from January 1, 2008 – July 31, 2017, Arkansas has had twenty-one Major Disaster Declarations. From these twenty-one disasters, Arkansas has received a combined total of $55,542,952.67 for Individual Assistance and $440,770,920.39 for Public Assistance. Disasters come in all shapes and sizes, they do not have political ties, and they can affect any county at any time. Over the last decade, Arkansas has witnessed extensive flooding, devastating tornadoes, ice storms, an oil spill, and we are patiently waiting on the ever-looming threat of the tectonic plates shifting at the

New Madrid fault. As the elected officials of your county government, it is up to you to help your county weather the storm. Fortunately, many have come before you and many lessons have been learned along the way. As the executive officer of county government, it is primarily the duty of the county judge to deal with disasters; however, disasters can impact the day to day functions of any county official. This article is dedicated to providing county officials with information needed to prepare for and get through the next disaster that strikes their county. Being unprepared is not an option.

All County Officials

Continuity of Operations Plan

The single most important plan all county officials should be familiar with is their Continuity of Operations plan, also known as a disaster recovery plan. During a disaster, the county government cannot afford to shut down and cease working; therefore, knowing the Continuity of Operations plan is vital to getting county government up and running again quickly and efficiently after a disaster or emergency. A Continuity of Operations (COOP) plan is the effort within individual counties to ensure they can continue to perform their mission essential functions during a wide range of emergencies. It is the initiative that ensures governments, departments, businesses, and agencies are able to continue their essential daily functions. This is not an initial response type plan, but rather a detailed, long term plan that requires planning for any event – natural, man-made, technological threats, and national security emergency – causing a county to relocate its operations to an alternate or secondary site to assure continuance of its essential functions. A valuable plan addresses orders of succession, delegations of authority, continuity facilities, continuity communications, essential records management, human resources, testing, training, exercising, devolution, and reconstitution. The Arkansas Continuity of Operations Program provides a methodology, hardware, software, training, and user assistance for the development, maintenance, and testing of disaster recovery plans for Arkansas agencies, boards, commissions, school districts, counties, and cities. These plans are intended to ensure that essential services will continue to be provided after any disruptive event. Information regarding training and planning from the Arkansas Continuity of Operations Program can be found at http://www.dis.arkansas.gov/security/Pages/ContinuityofOperationsProgram.aspx.

One of the most important aspects of a Continuity of Operations plan is having a backup facility that you can relocate to and recover data if your primary facility is damaged or destroyed. There are three types of backup sites: cold sites, warm sites, and hot sites. Cold sites are typically empty operational spaces with basic facilities like air conditioning, power, and communication lines. A hot site is a duplicate of the primary facility, with full computer systems and backups of data and it can often be brought up to full production immediately. Warm sites fall in between hot and cold sites. These are not your bare-bone facilities, but recovery may be delayed while you retrieve data from your remote backup site. These backup sites can be rented, obtained through mutual aid agreements, or might already be owned by the county, but they should be 15+ miles away from your primary site to lessen the chance of a disaster affecting your primary and backup facility. Regardless of what type of backup site your county uses, it is crucial to always keep an updated backup of all records and data. Records and data should be backed up every day and you should be able to recover them from a remote location to ensure the county government will continue to run smoothly through disastrous times.

Disaster recovery plans are so important that Ark. Code Ann. § 10-4-424 authorizes the Arkansas Legislative Audit to conduct audits of all or any part of the information systems or operations of any entity of the state or political subdivision of the state. Information systems audits evaluate an entity's information processing systems including the entity's disaster recovery plan. Ark. Code Ann. § 10-4-424 also requires all contracts between counties and vendors for information systems or other computer services to contain a provision permitting Arkansas Legislative Audit access and authority to audit computer applications supplied by vendors. For more information on how to keep your Continuity of Operations plan up to par with the Arkansas Legislative Audit, see the Arkansas Legislative Audit Information Systems Best Practices at http://www.arklegaudit.gov/!userfiles/editor/docs/Resources/IS%20Best%20Practices.pdf.

National Incident Management System

Another way to be prepared for a disaster is being familiar with the National Incident Management System (NIMS) and the Incident Command System (ICS). The National Incident Management System is a comprehensive, national approach to incident management that is applicable to all jurisdictional levels across functional disciplines and is intended to: (1) be applicable across a full spectrum of potential incidents, hazards, and impacts, regardless of size, location or complexity; (2) improve coordination and cooperation between public and private entities in a variety of incident management activities; and (3) provide a common standard for overall incident management.

While you may receive a crash course on the National Incident Management System after being elected, it is up to you to stay on top of your training. Since county officials are elected, the Federal Emergency Management Agency (FEMA) does not mandate a training standard for them to adhere to, but FEMA and the Arkansas Department of Emergency Management (ADEM) strongly recommends the following training agenda depending on your level of incident management:

1. Anyone with a Response or Emergency of Operations Plan
    i. IS-700 – an Introduction to NIMS (3 hour course)
    ii. IS-100 – an Introduction to the Incident Command System (3 hour course)
2. First Line Supervisors
    i. All of the above plus
    ii. IS-200 – NIMS for Single Resources (3 hour course)

3. Middle Management / Emergency Operation Center Staff
    i. All of the above plus
    ii. ICS-300 – Intermediate ICS
    iii. IS-702 – Public Information Systems (3 hour course)
    iv. IS-703 – Resource Management (3.5 hour course)
    v. IS-800 – an Introduction to the National Response Framework (3 hour course)
4. Command and General Staff (Jurisdiction/Department Heads)
    i. All of the above plus
    ii. ICS-400 – Advanced ICS

All of the courses listed above with the exception of ICS-300 and ICS-400 can be found on FEMA's website at https://training.fema.gov/nims/. ICS-300 and ICS-400 are available from ADEM as classroom activities only. It may be difficult to carve out time, especially during the first few months in office. However, you can get a head start on your learning by use of Ark. Code Ann. § 14-14-1207 which authorizes reimbursement of expenses for discretionary functions and services including training expenses for a county official-elect if authorized by the quorum court.

County Judges

Authority

The first step in being prepared as a county judge is to understand your legal authority and the extent of that authority. County judges must have a clear understanding of their roles and responsibilities for successful emergency management and incident response. One path to understanding is becoming familiar with the laws governing disasters. There may be ordinances that are specific to the city or the county, but there are also state laws that must be followed. Each county judge should be familiar with the Arkansas Emergency Services Act of 1973 codified as Ark. Code Ann. §§ 12-75-101 – 12-75-133. The Arkansas Emergency Services Act of 1973 is vital to understanding the process of declaring a local disaster emergency, the requirement for local emergency management, the process of requesting mutual aid between jurisdictions, and much more.

Your responsibilities and duties will vary depending on whether the disaster is declared at the state level or federal level so it is vital to understand your role in both. However, you are not alone in this endeavor; your local emergency manager will always be there to help guide you down the right path. The local emergency managers and the area coordinators are great assets during any emergency and they can assist newly elected or seasoned county judges through the entire disaster process.

Exercising

Maybe the most crucial step in being prepared is to exercise as often as possible. The Arkansas Department of Emergency Management offers various different training exercises including natural disasters, disease outbreaks, social disruption, and technological disasters. By September 21, 2017, ADEM will have conducted 82 exercises within the period of one year (October 5, 2016 – September 21, 2017) throughout the state of Arkansas. Former Faulkner County Judge Allen Dodson knows first-hand how beneficial these exercises are. Dodson was appointed to the position in January of 2013. Just over a year after being appointed, an EF4 tornado would tear through Faulkner County flattening a subdivision, crippling a community and causing multiple deaths. However, the county was prepared for this disaster. Just a couple of months prior to the tornado hitting, the county participated in a tornado exercise very similar to the scenario that occurred in late April of 2014. You can view the current schedule of upcoming training exercises through September 21, 2017 on ADEM's website at http://www.adem.arkansas.gov/Websites/ardem/images/EXSchedule.pdf. There are three more exercises occurring before the end of September involving flooding, earthquake, and activation of the State's Emergency Operations Center (SEOC). Just like any good basketball, football, or baseball team that practices and exercises endlessly to become the best team they can be, so you and your county can practice, exercise, and be prepared to overcome any disaster that comes your way.

Documenting

As crucial as preparedness is, it is only half the battle and will not prevent disasters from occurring. First and foremost, the most important thing to do once a disaster strikes is to document, document, and document. Documentation is the process of establishing and maintaining accurate records of events and expenditures related to your disaster recovery work. The information required for documentation describes the "who, what, when, where, why and how much" for each item of disaster recovery work. A picture is worth a thousand words or dollars in this case so it is vital to take pictures and record everything. All documentation pertaining to a project should be filed together with the corresponding Project Worksheet. You should be as specific as possible when describing damage. For example, if you have two buildings with water damage you would want to describe the damage as, "Floodwater inundated two buildings that serve x number of people, to a depth of x number of feet, damaging drywall, tile flooring, and books in all x number of rooms." Detail is the critical factor when documenting damage. So much so, Judge Hart of Conway County recommends purchasing cameras that show the time the picture was taken and show the exact GPS coordinates the picture was taken at. You can even go as far as putting emergency kits in the glove compartments of vehicles likely to be called out to do emergency repairs. These kits could include disposable cameras and forms where staff can list who was at what location, how much time was spent there, and what equipment was used.

Unfortunately, the documentation process does not end with damages. The uniform rules require counties to maintain records sufficient to detail the history of procurement. Every contract that gets signed needs documentation of: (1) the rationale for selecting the contract type used and for contractor selection; (2) the basis for the contract price; (3) acquisition planning

information and other pre-solicitation documents; (4) list of sources solicited; (5) copies of published notices of proposed contract action; (6) independent cost estimate; (7) notice of award; and (8) notice to unsuccessful bidders or offerors and record of any debriefing (44 C.F.R § 13.36). These records become the basis for verifying your final project costs and should be retained for at least three years from the date the State closes your grant. Accurate documentation will help recover all eligible costs, have the information necessary to develop project worksheets, have the information available for the state and FEMA to validate the accuracy of smaller projects, and be ready for any state or federal audits or other program financial reviews.

Procurement

Once the initial documentation of the damage has been completed it will be time to start the restoration process and there may arise a time when it is necessary to contract work out to third parties to hasten the relief effort. Always remember when federal money is involved, you not only have to comply with your local procurement guidelines, but you must comply with the federal guidelines in 44 C.F.R § 13.36 and 2 C.F.R. §§ 200.318 to 326. One potential disaster to look out for when contracting is "storm chasers." Storm chasers are contractors who chase storms to try to get contracts from counties affected by disasters. Always, always, always, research the contractor before entering a contract. Look for contractors who: (1) have the ability to perform successfully under the terms and conditions of a proposed requirement; (2) have a satisfactory record of integrity and business ethics (contractors that are debarred or suspended must be rejected and cannot receive contract awards); (3) complied with the public policies of the federal government and state and local government; (4) have the financial and technical resources to perform the work under the contract.

<u>County Sheriffs</u>

Civil Unrest

During the two year opposition period of the Dakota Access Pipeline, Sioux County, North Dakota saw its population nearly double. People poured into the county by the thousands and set up camp to protest the Dakota Access Pipeline. Whether these movements stay as peaceful protest or escalate into riots, counties usually do not have the staff or resources to deal with a sudden increased fluctuation of people. The Arkansas Sheriff's Association Task Force was created to render emergency assistance and provide addition personnel to sheriffs with regard to but not limited to the security of homeland, disaster relief, civil defense, and law enforcement assistance with crowd and riot control. The primary mission of the Arkansas Sheriff's Association Task Force is to act as an ever-ready reactionary force prepared to respond to emergencies and calls for assistance anywhere in the state of Arkansas. Looking back at North Dakota, if the same situation were to occur in Arkansas and the county's sheriff department did not have the resources to combat it, then the sheriff could activate the Task Force and request assistance from surrounding jurisdictions. Ark. Code Ann. § 16-81-106 authorizes certified law enforcement officers to have police power and to make arrest in other jurisdictions at the request of or with the permission of the municipal or county law enforcement agency that has jurisdiction.

The Task Force is to be used for smaller incidents as opposed to federally declared disasters. For larger incidents, such as federally declared disasters, you will be coordinating with your local emergency manager and the Arkansas Department of Emergency Management to get the resources you need. The Arkansas Department of Emergency Management will always be there to help you receive the resources you need whether they come from neighboring jurisdictions, the Arkansas State Police, or the Arkansas National Guard. The definition of "emergency management" under Ark. Code. Ann. § 12-75-103 includes law and order, rescue, and evacuation as functions essential to disaster or emergency preparedness, mitigation, response, recovery, and prevention by state and local governments. Ark. Code Ann. § 12-75-130 allows county sheriffs to authorize and request retired law enforcement officers, including game wardens, to perform law enforcement functions during emergency situations.

Disasters do not care whether you are the county judge or county clerk, republican or democrat, or if it's your first day on the job or your last, they can and will occur without notice. Every county benefits when their elected leaders are prepared to handle any disaster. Whether it is fine tuning your Continuity of Operations plan, updating your knowledge on the National Incident Management System, or learning the federal guidelines for procurement, the more prepared and ready you are to deal with a disaster, the quicker you can overcome it.

Chapter 15 - GLOSSARY OF TERMS

Prefatory Note: The definitions which follow are intended as everyday statements of the meanings of the terms listed below, in alphabetic order. These definitions are not intended to be profound legal definitions, but are, instead, made everyday definitions for working use by the members of the staff in the Sheriff's office. Where the same term has different uses in different connections, it is so indicated.

Abandon - To give up with the intent of never again claiming a right or interest in.

Abrogate - To annul, repeal, or destroy; to annul or repeal an order or rule issued by a subordinate authority; to repeal a former law by legislative act.

Accused - One charged with an offense.

Acquit - To discharge completely from an accusation.

Affiant - The person who makes or swears out a warrant.

Affidavit - A statement in writing made under oath or an affirmation before an authorized magistrate or official.

After the fact - Occurring after something as already happened.

Agent - Person authorized to act for another.

Amended - Changed, revised by removing defects.

Amercement - Pecuniary (monetary) penalty imposed upon a person for some fault or misconduct. The amount is not set by statute but is arbitrarily chosen.

Answer - In a civil court action the answer is a party's reply to accusations against him.

Appeal - The process of having a case reviewed in a higher court.

Appellate court - A court with the power to review the judgment of a lower court.

Appropriate - To take exclusive possession of; to set apart for a particular use.

Appropriation - Money set aside by a formal action for a specific use.

Assignment - A transfer to another of any property or right.

Attachment - Act of seizing property, by virtue of a judicial order, and bringing into custody of the law.

Attest - To authenticate by signing as a witness.

Audit - Examine with intent to verify; a methodical examination and review.

Authorized - Invested with legal authority; empowered.

Aye - Affirmative; yes.

Bail bond - Security to assure the appearance of a prisoner in court, given in order to obtain release from jail.

Bailiff - A court officer who ushers witnesses to witness box, who may help judge in keeping order in court or act as a messenger.

Body politic - The people collectively of a politically organized state.

Bona fide - Honestly, openly, sincerely, with good faith, without deceit or fraud.

Bond - An obligation made binding by a money forfeit if the obligation is not met.

Capias - A legal writ or process commanding the officer to arrest the person named in it.

Certificate - Document confirming that one has fulfilled the requirements for practice in a profession or occupation.

Certified copy - A copy of a document or record signed and certified as a true copy by the officer who has custody of the original.

Civil action - A court action instituted to compel payment, based on civil rather than criminal law.

Clerk of court - Person responsible for keeping records of the court, for setting cases on the docket, and for handling the court's paperwork.

Commissioned - Having a formal written warrant granting the power to perform various acts or duties.

Commitment order - The warrant by which a court directs an officer to take a person to prison or to a mental or other institution.

Compliance - The process of conforming to requirements.

Confiscate - To seize property by authority.

Consideration - An act or promise by one party of an agreement offered as an inducement for the other party's act or promise.

Conspicuous - Obvious to the eye or mind.

Constitutional officer - One whose term of office is fixed and defined by a constitution.

Continuance - The postponement of an action pending in court.

Controlled substances - Narcotics and dangerous drugs referred to in the Uniform Controlled Substances Act of 1972 as modified and adopted in Arkansas.

Convicted - to be found guilty in a court of law.

Corporate surety - One who pledges to pay money or to do an act in the event that the principal (in this case a corporation) fails to perform.

Consignees - Two or more signers, jointly liable.

Criminal action - Judicial proceeding by which a party charged with a violation of a criminal offense is accused, brought to trial, and if convicted, punished.

Criminal warrant - A warrant issued in a criminal action; see Warrant.

Cross action - A suit brought by a defendant against a plaintiff who is suing him.

Cross declaration - Similar to a cross action accusation of a defendant against the plaintiff in a civil suit.

Decree - A written decision of a trial court giving the courts' findings in a particular case.

De facto - In fact, as a result of, in reality.

Default judgment - A court decision against a defendant who does not appear in court when ordered to do so.

Defendant - In a criminal case, the person who is accused of committing a crime. 2. In a civil action, the person who is being sued or called to answer a complaint against him or her.

Deficiency - A lack or shortage; the amount by which what is owed exceeds what is paid, etc.

Delinquent - Any juvenile who has committed an act other than a traffic offense which if such act had been committed by an adult, would subject that adult to prosecution for a felony or a misdemeanor. (AS 45-403)

De novo - Anew, over again. If a trial de novo is ordered, a new trial occurs and the record is thrown out. When a person appeals to a higher trial court, he is given a trial de novo.

Deposit - To place money, property, or any other thing in someone's care for safekeeping or as a pledge.

Deposition - A sworn statement of a witness taken down out of court. Admissible as evidence in court sometimes.

Detain - To arrest, to check, to delay, to hinder, to hold.

Detainer - The act of withholding land or goods from the rightful owner; the restraint of one's personal liberty against his or her will; detention.

Detention home - A facility for the safekeeping of delinquent or neglected juveniles.

Disbursement - Funds paid out.

Discretionary - The right to use one's own wisdom and judgment in deciding what to do.

Distrain - To take property as a pledge and hold it until pledgor performs his obligations or until the property is replevied by the sheriff (returned to a person who claims it was wrongfully taken, after that person has given security that he will surrender the property if defeated in a court action).

Distress warrant - A warrant authorizing an officer to seize personal property of a person for nonpayment of taxes, rent due, etc.

Docket - (1) Court docket is the schedule of cases to be heard by the court. (2). Jail docket is the list of prisoners held in the jail with the necessary information about each one.

Endorse – (1) To sign one's name on the back of a document to show evidence of a legal transfer of ownership. (2). To acknowledge receipt of a document by signing it.

Equitable estate - The amount or value of real or personal property over and above the total of all liens or charges against it
.

Execute - To carry out some duty; to do something that is required.

Execution – (1) The act of carrying out one's duty. (2). Writ commanding sheriff to obtain satisfaction of a judgment in debt or damages from the defendant's property.

Exempt - To be free from a duty or service; immune from a burden, tax or charge.

Exhumation - Disinterment; the removal from the earth of anything previously buried, (especially a human corpse).

Exigence or Exigency - Emergency; a pressing necessity; an event calling for sudden action.

Ex **officio** - Because of the office; as a result of an office.

Exonerate - To clear from accusation or blame; exculpate.

Ex parte - From a one-sided point of view.

Expenditure - The process of paying out money.

Expiration - The end of an allowed period of time; to breathe one's last; termination.

Extradition - The surrender of one state or nation to another

of a person accused or convicted of a crime.

Eyewitness - A person who testifies about what he has seen.

Feasance - The doing or performing of an act. See Malfeasance, Misfeasance, and Nonfeasance.

Feasible - Capable of being carried out; possible.

Felony - A crime punishable by a term of one year or more in the penitentiary.

Fidelity – Strict and continuing faithfulness to an obligation, trust, or duty.

Fiduciary - One who holds money for, or owes a duty to, another. The sheriff acts in a fiduciary capacity for the people of the county in collecting fines and enforcing the law.

Fi fa (fieri facias) - A writ of execution commanding the sheriff to obtain satisfaction of a judgment in debt or damages from the defendant's property.

Filed - A paper or document which has been placed in the official custody of the court clerk for its safekeeping is "filed".

Fine - A sum of money imposed as a penalty. Amount is set by statute and can be imposed only by a court.

Firearm - Usually refers to a handgun, rifle, or some similar weapon from which a shot can be fired.

First offender act - Arkansas law which prescribes probation for certain crimes committed by one who has no prior criminal record.

Flee from justice - Removing one's self from, or secreting one's self within, jurisdiction wherein an offense was committed in order to avoid prosecution.

Fraud - An intentional misrepresentation of matter of fact with the aim of illegally depriving a person of his or her Property or legal right.

Fugitive from justice - A person who is wanted in a criminal action and who has fled or is avoiding capture.

Functions - Purposes which something or someone serves; duties.

Gaming house - Building, place, or room kept as a place to gamble.

Garnishee - One who is served with a garnishment.

Garnishment – (1) A warning to a person who is holding money, property, etc., of another not to pay that money, etc., to the owner until further notice. (2) More commonly, a statutory proceeding whereby a person's property, money, or credits in possession of another are paid to a third person to satisfy a debt or judgment.

Good faith - Belief that one's conduct is honest and lawful.

Grand jury - A jury of inquiry summoned to examine accusations against persons accused of committing crimes. It decides if the evidence warrants making formal charges (an indictment) against the defendant who would later be brought to trial. In Arkansas, the grand jury also has certain civil investigatory powers.

Grants - Money given to a particular person, organization, etc., for a specified purpose. Usually from federal agencies.

Gratuity - Gift, something voluntarily given in return for a favor or especially a service.

Guaranty - One who agrees to pay debt of another if the principal party defaults. Usually one who is guaranty on a bond.

Guardian ad litem - Someone appointed by a court to prosecute or defend an action for an infant or mental incompetent in any suit to which he or she may be a party.

Guilty - (1) The word used by a defendant in pleading to an information when confessing the crime with which was charged. (2) One whom a trial of fact finds to have violated the criminal law.

Habeas corpus, writ of - A court order which brings a person before a judge to determine whether he or she has been restrained of liberty by due process of law. The sole function of this writ is to release one who is unlawfully imprisoned.

Hallucinogens - Types of drugs or other substance which cause the user to have imaginary visions and distorted mental images, i.e., hallucinations.

Head of household - Whoever has the financial responsibility of managing the home and family.

Hearing - A proceeding in which arguments, witnesses, or evidence is heard by a judge or administrative body.

Hearsay - Evidence not proceeding from the witness's personal knowledge but is merely a repetition of what the witness has heard from others.

Home rule - The powers granted local governments by the state to manage their own affairs and operations.

Homestead - The fixed residence of the head of a family, including the land and buildings surrounding the named house.

Homicide - Killing of a human being. Homicide is not always a crime (self-defense, capital punishment, etc.)

Hot pursuit - Chase of a fleeing offender by a law enforcement officer.

Illeviable - That which cannot be levied on.

Illicit - Unlawful, not permitted or allowed.

Illusory - Deceiving by false appearances.

Immunity - Exempt from duty or service imposed on others, e.g. protection from arrest.

Imprison - See Incarcerate.

Incarcerate - To confine in a jail or penitentiary.

Incident - As a part of; connected to and not separate from; dependent on.

Incite - To arouse, urge, and provoke - as to incite a riot.

Indebtedness - State of being in debt. It does not mean a debtor cannot discharge his debts, but merely that he has not paid them yet.

Indictment - A written accusation by the grand jury stating there is enough evidence to bring the defendant to trial.

Indigent - One who is needy and poor. Persons who cannot support themselves or do not have anyone who can support them.

Informant - One who gives information about a crime or other activity.

Information - A written accusation by a prosecuting attorney stating there is enough evidence to bring the defendant to trial and charge him with a crime.

Injunction - Court order to cease or not begin an act.

Inmate - One who is incarcerated.

Innocent - One who is not adjudged to be guilty.

In rem - A judicial proceeding designating an action or judgment against property as distinguished from one against a person (in personam).

Insolvency - Having more liabilities than assets; being unable to pay one's debts.

Instigate - Incite, stimulate, or goad into action.

Interim - In the meantime. An appointment made to fill an office during a temporary vacancy.

Intestate - One who dies without making a will.

Jail - Prison; place where sheriff keeps prisoners.

Jeopardy - The danger that an accused person is subjected to when on trial for a criminal offense.

Journal - A day-by-day record of transactions.

Judgment - The decision of the court

Judgment debtor - A person against whom judgment has been rendered and who now owes something to the other party.

Judicial - Relating to the administration of justice

Judicial Act - An act which involves exercise of discretion or judgment.

Jurisdiction - The limits or territory within which authority may be exercised.

Jury - A group of persons sworn to inquire into the facts of a matter and to give a verdict based on the evidence.

Justify - To show a sufficient lawful reason for an act done.

Kleptomania - An irresistible propensity to steal.

Laches - Undue delay in asserting a legal right, making a claim or judgment unenforceable.

Larceny - Theft of another persons personal property.

Lease - Rental agreement.

Leasehold - The interest of the tenant in the property he rents.

Legal process - A writ, warrant, or order issued by a court.

Legitimate - Within the law.

Levy - To impose or collect by legal authority; to raise or assess, as to levy a tax, to levy a fine. Also, to seize as to levy on a debtor's property.

Lewd - Obscene or indecent.

Liable - Obligated according to law or equity.

Libel - Any statement, written or oral, that unjustly injures someone's reputation.

License - Certification or document that gives permission to do something.

License fee or License tax - Charge imposed by city, county or state for a privilege.

Lie detector - A pathometer or polygraph. A machine which records changes in blood pressure, pulse, and respiration - information that can be interpreted to measure emotional changes and indicate truth or falsity of a person's answers.

Lien - A charge upon real or personal property for the satisfaction of some debt or duty ordinarily arising by operation of law.

Loiter - To delay aimlessly; to stay in an area for no apparent reason.

Liquidation - The act or process of settling or making clear. In bankruptcy, a winding up of affairs.

Magistrate - An official entrusted with administration of the laws in special or limited jurisdictions.

Malfeasance - An act that is illegal.

Malice - Intent to commit a wrongful act without just cause or excuse and with intent to inflict harm.

Mandatory - Imperative, something which must be done.

Material witness - One who testifies with regard to substantial matters in a dispute.

Minimum standards - The lowest requirements which must be met.

Ministerial act - An act performed in obedience to legal authority without the exercise of ones own judgment.

Minutes - The official record of the proceedings of a meeting.

Misdemeanor - Offense less serious than a felony and generally punishable by fine or imprisonment in a facility other than a penitentiary.

Misfeasance - Improper performance of a lawful act.

Mittimus - Court order directing the sheriff to commit or release a prisoner.

Nolle prosequi - Formal entry on the court record by the prosecutor that declares he will prosecute no further.

Nolo contenders - Latin for "I will not contest it." Plea in a criminal case having same legal effect as a plea of guilty except that it cannot be used as an admission of guilt in a collateral civil suit.

Nonfeasance - Nonperformance of an act or duty that should be performed.

Notary public - Public officer whose function it is to attest and certify by his or hand and seal.

Oath - A solemn attestation of the truth of one's word.

Obligation - Something that one is bound to do or refrain from doing.

Obstructing an officer - Forcible resistance to a law enforcement officer who is performing his or her duties.

Obstructing justice - Impeding those who seek justice in a court, or those who have duties or powers of administering justice.

Occupant - Resident.

Offender - Person implicated in commission of crime.

Offense - Any breach of the criminal law, either a felony, misdemeanor, or violation.

Office of profit or trust - An office for which the holder is paid or for which he or she receives some honor or privilege.

Official capacity - Coming within the scope of one's duties in office.

Official notice - Notice of a proceeding given to someone in the manner set out by law.

Option - A person's right to do or not to do something as he or she chooses.

Pact - Bargain, contract, or agreement.

Pardon - A release from punishment by the governor or president. It blots out all existence of guilt. All rights are restored to the person and in the eyes of the law, he or she never committed a crime.

Parole - Conditional release of a prisoner before expiration of his term, requiring that he or she remain under supervision and be returned to prison upon violation of the condition of parole.

Party - A person who is either a plaintiff or a defendant in a legal action.

Peers - Equals; those who are a person's equal in rank or station. A "trial by a jury of peers" means a trial by jury of citizens.

Penal offense - Punishable crime.

Penitentiary - A state or federal prison.

Personal property - Those things that a person owns other than land, such as car, clothing, furniture, etc.

Personal service - The method of delivering court papers that requires the sheriff or deputy to personally hand the papers to the person who is supposed to get them.

Personalty - Personal property.

Personnel - The people employed in an organization or one of its subdivisions such as an office or department.

Petit jury - jury of twelve persons for trial in a civil or criminal action. Also, called a traverse or trial jury.

Petty cash fund - A small amount of money kept on hand for emergencies and minor expenses.

Plaintiff - The complaining party in a lawsuit; the person who begins the suit in a civil action.

Polygraph - See Lie detector.

Posse comitatus - The power of the county, as exercised by the sheriff, to summon anyone to help in carrying out the duties of office (for example, to aid in keeping the peace, or in pursuing and arresting felons).

Possession - Control or occupancy of property, but not necessarily ownership; person in possession has legal rights to assert interests in the property.

Post - To put a notice, or other paper, up on a wall, door, etc., where it is in plain view of the public and where any person may easily read it.

Postmortem - After death. Usually used to apply to an autopsy or examination of a dead body to determine cause of death.

Potable - Drinkable. In reference to water supplies, a nonpermanent supply.

Precept - An order from an authority to an officer (sheriff, for example) commanding him to do some act within the scope of his powers.

Premises - A building, or part of a building, and the land it is on.

Premiums - Fees paid for insurance or other services.

Preside - To direct or guide some event or function. A judge presides over a trial.

Principal - The employer of an agent; the person who gives authority to an agent or attorney to act for him. In a debtor relationship, the person primarily responsible for paying - the borrower.

Probable cause - Enough reliable information to give a reasonable basis for believing something to
be true.

Probation - A suspended sentence, conditional on good behavior, allowing a convicted person to go at large under supervision of a probation officer.

Promissor - One who makes a promise.

Proportionate - Regulated or determined in size or amount by the size or amount of something else.

Prosecute - To bring criminal charges against a person.

Prosecuting attorney - The public officer who conducts criminal prosecutions and functions as the trial lawyer for the state or the people. Also called District attorney, Prosecutor, Solicitor.

Proxy - One who acts for another. For example, a deputy sheriff acts as proxy for the sheriff.

Prudent - Careful, responsible and cautious

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Public conveyances - Transportation available to and used by the general public, such as a city bus, a train, a public airplane, a public ferry, etc., but not a private automobile or a person's own private airplane, etc.

Purloin - To steal or commit larceny.

Pursuant - Following closely behind; closely related.

Putative - Alleged or reputed. For example, a putative father is one who is commonly believed to be the father.

Quarantine - Isolate because of illness or disease.

Quash - To overthrow, make void. When a judge quashes an indictment, he or she dismisses the case against the defendant.

Quasi - As if; used to indicate that something closely resembles something else but that there are distinct legal or factual differences.

Quorum - The presence of sufficient number of members of an organization to conduct business.

Ratify - To approve, validate, confirm, sanction.

Real property, Realty - Land, and generally whatever is erected or growing on it.

Receipts - Money or other property that is received.

Records - Documents, papers, files, etc., kept to preserve something or prove its existence.

Recruit - A new member of an organization.

Registration fee - Amount charged by a clerk, etc., for recording a document or other papers.

Reimburse - To pay back, to repay that expended.

Remainderman - Person who holds a remaining interest in an estate. One who is entitled to the remainder of an estate after a particular estate carved out of the original has expired.

Remit - To send back; to give up or relinquish.

Remittitur of record - Returning by the court of appeal of the record and proceedings in a case, after its decision thereon, to the court whence the appeal came in order that the case may be tried anew, or that judgment may be entered in accordance with the decision.

Render - To pronounce, state, or declare a court's verdict or judgment.

Replevy - To return property to a person who claims it was wrongfully taken from him or her, upon that person's pledging to try the matter in court and return the goods if defeated in

the court action.

Resolution - A formal expression, adopted by vote, of the opinion or will of an official body.

Restore - Return to normal or previous condition; return to person from whom something was taken.

Return of process - The act by a sheriff or other officer of delivering back to the court a writ, notice, or other paper which the officer was required to serve or execute, with a brief statement of what he did, the time and way of service or execution, or his failure to accomplish it and why, as the case may be. False return: A return in which the sheriff, etc., says he served it when he really did not; or one in which he gives untrue reasons for his failure to serve it, or otherwise makes false or incorrect statements.

Reversioner - The grantor or his heirs who are entitled to the estate by some operation of law at some time in the future. It is a future interest in an estate left by the grantor as a fixed right to future enjoyment.

Scire facias - A judicial writ requiring the defendant in a civil action to show cause why the plaintiff should not be able to use facts from a judicial record, such as judgment, for his own benefit.

Seize - Take hold of, take possession of.

Session of court - Often used to mean "term" of court although not, strictly speaking, the same. The session is the time during which the court is actually sitting for the transaction of business and, hence, ends each day when the court adjourns. See also Term of court. Open session: A session of court which the public is allowed to watch and attend. Closed session: A court session to which the public is not admitted, and only those persons necessary for the matter at hand are allowed to attend.

Show cause - A requirement that a person present good reasons why something should or should not be done.

Single unit - A building composed of only one residence or one office, such as a private home, as opposed to a building containing several residences or offices, such as an apartment building.

Solemnly swear - To make a formal oath or affirmation.

Special deputy - A deputy hired for a particular purpose apart from the regular day-to-day work of the sheriff's office.

Statement of expenses - Written report giving a record of all money spent, all debts incurred, and their purposes.

Subpoena - A court order requiring a person to appear in court and testify as a witness.

Successor - One who follows another in office.

Summon - To call to court; to require a defendant to appear in court to answer complaints against him.

Supreme court - The highest court. The U. S. Supreme Court is the highest court of the United States; the Arkansas Supreme Court is the highest court in Arkansas.

Sureties - Persons who are bound to make payment to do some act if the person responsible does not do so.

Surety company - A company which, for a fee, will assume responsibility of a surety on bonds for officers and others. See Sureties.

Suspension from office - Temporary removal from the rights, responsibilities, and privileges of an office.

Sworn petition - A written application to a court made under oath giving certain facts and asking for the court to take certain action.

Tax liens - Restrictions on the use and especially the sale of property, placed because of the owner's failure to pay his or her taxes.

Term of court - The period prescribed by law during which the court may hold sessions. It may last several days, weeks, or months, depending on what the law requires. Regular term: The normal time when the court is scheduled to meet. Special term: A period when the court meets which is not regularly scheduled but is called for a particular reason.

Tort - A legal wrong committed upon a person or property.

Transaction - A business deal or other negotiation.

Traverse - To formally deny an allegation set forth in a previous pleading.

Treasury - A place where public revenues are kept and from which they are disbursed.

Under color of - Acting under the authority of a law or position of responsibility whether truthfully or fraudulently.

Vacate - To move out, to leave the premises.

Valid - Having legal strength or force; executed properly and legally binding.

Venire - To appear in court.

Venire facias - A writ commanding the sheriff to call the persons listed in the writ as jurors for jury duty.

Venireman - juror, member of panel of jurors.

Violation - A criminal offense which provides for no sentence other than a fine.

Virtute officii - By virtue of office. By authority vested in one as incumbent of office.

Void - Having no legal effect.

Voucher - A written record of a business transaction.

Waive - To voluntarily give up a right.

Warrant - An order of a court or other competent authority commanding a sheriff or other officer to do something.

Writ - A written court order addressed to a named person.

Writ of execution - A writ to put in force the judgment or decree of a court.

Writ of possession - The writ of execution used to enforce a judgment giving possession of a piece of land or personal property compelling the sheriff to give possession to the person named herein.