

93rd General Assembly

# *signed into law*

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## I. CHECKS AND SCREENINGS

Every year, more than 600,000 people are released from American prisons and forced to navigate a job market that is generally hostile to formerly incarcerated individuals.<sup>1</sup> Despite significant evidence suggesting that post-release employment reduces recidivism and eases one's reintegration into society, legislators have continued to create additional barriers for those seeking employment post-release.<sup>2</sup> Arkansas largely prohibits individuals with criminal records from acquiring occupational licensure. Many other jobs require applicants to undergo criminal background checks which often place an undue burden on formerly incarcerated individuals, though they may sometimes be justified. When these barriers are coupled with the difficulty to obtain a driver's license, acquire stable housing, and maintain proper identification, formerly incarcerated people face an uphill battle to become employed.

### **Occupations That Require Checks & Screenings**

**ACT 717:** To Clarify Requirements for Registry Records Checks and Criminal Background Checks for In-Home Caregivers of Medicaid Beneficiaries  
Sponsored by: Representative Miller (R)

Act 717 requires in-home caregivers of Medicaid beneficiaries to pass a registry records check — particularly with the Child Maltreatment Central Registry and the Adult and Long-Term Care Facility Registry — in order to be paid with Medicaid funds. If a caregiver is found to be on either of these registries, state law now prohibits them from being employed and receiving Medicaid funds.

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<sup>1</sup> <https://bit.ly/3imowKL>

<sup>2</sup> <https://bit.ly/3F6rmNL>

**ACT 761:** An Act to Require Employees of Certain Healthcare Providers to Have a Criminal Background Check; and for Other Purposes  
Sponsored by: Representative Penzo (R)

Act 761 adds to the list of entities whose employees must undergo a criminal background check: an entity that provides personal care services to individuals; a long-term care facility under § 20-10-1202; or an entity that provides services to or houses teens and youths.

**ACT 682:** To Enable the Arkansas Racing Commission to Require Certain Employees and Service Industry Personnel to Apply for a License and Be Subject to Background Checks  
Sponsored by: Representative Fortner (R); Senator Sample (R)

Act 682 requires those who apply to be casino employees in the state of Arkansas to be fingerprinted for both state and national criminal background checks and state noncriminal background checks before receiving licensure to work in a casino. Additionally, this law makes it a Class A Misdemeanor for a person to knowingly make a false statement on a license application.

### **Occupations That Disqualify a Person Due to a Prior Criminal Offense**

**ACT 136:** To Clarify the Criminal Offenses That Would Cause the Denial, Suspension, or Revocation of the Licensure of a Massage Therapist  
Sponsored by: Senator Hester (R); Representative Ladyman (R)

Before the passage of Act 136, the state of Arkansas did not specify which felonies — besides prostitution — disqualified someone from receiving licensure to become a massage therapist. The statute simply required the applicant to swear that they had not been convicted of “an offense that constituted a felony.”

Now, however, state law specifies that one will be disqualified from licensure if they have been convicted of prostitution or a felony listed in [§ 17-3-102](#). Offenses listed under this statute include capital murder, arson, sexual assault in the first degree, etc.

**ACT 565:** To Amend the Law Regarding Industrial Hemp Production; to Repeal the Arkansas Industrial Hemp Act, and to Establish the Arkansas Industrial Hemp Production Act  
Sponsored by: Representatives Hillman (R), F. Allen (D), K. Ferguson (D)

Act 565 repeals the Arkansas Industrial Hemp Act and replaces it with the Arkansas Industrial Hemp Production Act. Among other things, the Arkansas Industrial Hemp Act prohibits those who have been convicted of a felony related to controlled substances from participating in the industrial hemp

program until ten years have passed since their conviction date. Anyone who wants to participate in the program will be fingerprinted and required to undergo a federal and state criminal background check.

**ACT 160:** Act to Amend the Arkansas Uniform Commercial Driver License Act; and to Disqualify a Driver Convicted of a Felony Involving a Severe Form of Trafficking in Persons

Sponsored by: Senator B. Johnson (R); Representative Holcomb (R)

Act 160 disqualifies a truck driver who has been convicted of a felony involving a “severe form of trafficking of persons” from operating a commercial motor vehicle for life. Unlike in other circumstances, Individuals are not eligible to have their license reinstated, even if ten or more years have passed since their conviction.

**ACT 974:** Concerning the Investigation of Violations of Election Law; and to Establish an Election Law Violation Hotline

Sponsored by: Representative Ladyman (R)

This law bars those who are convicted of election law misdemeanors or felonies from acting as an election official in subsequent elections. Additionally, this law establishes an election law violation hotline under the purview of the Arkansas Attorney General. It also provides that If the State Board of Election Commissioners finds a violation of the voter registration laws or election laws under its jurisdiction, the State Board of Election Commissioners may, in addition to other options available, decertify an election official from appointment as an election official; issue an order that the State Board of Election Commissioners shall take over and conduct elections in the county in question if the violation is considered severe by the State Board of Election Commissioners and would threaten either a county's ability to conduct an equal, free, and impartial election, or the appearance of an equal, free and impartial election.:

**ACT 826:** To Add an Additional Permanent Disqualifying Offense on Criminal Background Checks for Professions and Occupations

Sponsored by: Representative Gonzales (R)

Act 826 adds additional offenses to those that permanently disqualify someone from obtaining professional licensure. Anyone convicted of engaging children in sexually explicit conduct for use in visual or print media, the transportation of minors for prohibited sexual conduct, pandering, or possessing visual or print media depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in sexual performance by producing, directing, or promoting a sexual performance by a child is now explicitly prohibited from receiving professional licensure for any occupation.

**ACT 126:** To Amend Provisions of the Arkansas Code Concerning Arkansas Public School Academic Facilities and Transportation  
Sponsored by: Representative Evans (R); Senator L. Eads (R)

Act 126 prohibits someone from operating a school bus if they have been convicted of driving under the influence of intoxicating liquor or drugs-in the past three years.

### **Other Notable Bills**

**ACT 748:** To Amend Occupational Criminal Background Checks  
Sponsored by: Senator Hill (R)

Generally, the state of Arkansas disqualifies someone from acquiring occupational licensure if they have been convicted of capital murder, kidnapping, aggravated assault on a law enforcement officer, or any other of the twelve offenses outlined in [§ 5-10-101](#).

With the passage of Act 748, however, someone who has been convicted of any of these offenses is now able to acquire or maintain occupation licensure if they have been granted a waiver by the state. A request for a waiver can be made by an affected applicant for a license or the individual holding the license subject to revocation.

**ACT 630:** Concerning Non-Criminal Background Check Requests Submitted to the Division of Arkansas State Police  
Sponsored by: Senator J. Hendren (I); Representative M. Berry (R)

Act 630 requires a request for a background check that is submitted to the Arkansas State Police Criminal Background Check System for a non-criminal justice purpose (i.e., to acquire licensure, etc.) to be submitted electronically. This subsection, however, does not apply to requests originating from outside the state of Arkansas.

It also makes some changes to the definition of “non-conviction information” to include a felony arrest information without a disposition to a period of five (5) years elapsing from the date of arrest with no active prosecution rather than one year; and added any misdemeanor arrest for which a disposition has not been entered, as well as all acquittals, and all dismissals.



## II. COURTS

Every Some of the most severe injustices of the criminal justice system originate and are carried out in courtrooms. During the 93rd General Assembly, lawmakers passed a flurry of laws pertaining to everything from criminal record sealing to veterans' treatment specialty courts to sentence enhancement for habitual offenders.

### **Specialty Courts**

**ACT 58:** Concerning the Intrastate Transfer of a Specialty Court Program Participant to Another Specialty Court Program; to Create a Veterans Treatment Specialty Court Program; and to Create a DWI/BWI Specialty Court Program  
Sponsored by: Senator A. Clark (R)

Act 58 allows a participant of one specialty court program to transfer to another specialty court program, so long as the specialty court judge for the court that the participant is attempting to move to consents to the transfer. It authorizes circuit courts to establish two new specialty court programs: a veterans treatment specialty court program and a driving/boating while intoxicated specialty court program.

A person is eligible to participate in a veterans treatment specialty court if they are a current or former service member of the United States military, eighteen years or older, and agree to comply with specialty court's procedures. Unless the participant is found to be indigent, the participant is responsible for paying all fines and fees related to the costs of the program. If a judge determines the participant to have successfully completed the program, the participant is eligible to have their record sealed. A participant of the program may not have their record sealed, however, if they were

convicted of residential burglary, commercial burglary, breaking or entering, or driving or boating while intoxicated.

A person is eligible to participate in a driving/boating while intoxicated specialty court program if they are eighteen years or older, have a substance use disorder, agree to comply with the specialty court's procedures, and have pled guilty or nolo contendere or have been found guilty of driving/boating while intoxicated and is awaiting sentencing for the offense. Once enrolling in the program, the participant will have sixteen months from the date of their sentencing to complete the program. During the duration of their participation, a participant will be judicially monitored and undergo intensive substance use disorder treatment. "High risk, high need defendants," as determined by a risk-needs assessment tool, will be "strictly supervised" by the court.

### **Redistricting**

**ACT 87:** Concerning the First and Second Districts of the State District Court System; and to Declare an Emergency

Sponsored by: Representatives Lundstrum (R), Penzo (R); Senator L. Eads (R)

In August 2020 the town of Bethel Heights was annexed and became an official part of the city of Springdale by a vote of the people. Act 87 eliminates the First District court located in Bethel Heights entirely since the town no longer exists.

**ACT 825:** Concerning the Garland County District Court; and to Repeal Obsolete Statutory Language

Sponsored by: Representative Warren (R)

Before Act 825, the Garland County District Court had three departments: two departments were in Hot Springs, and one department was located in Mountain Pine. Act 87 eliminates the Garland County District Court and its departments and replaces it with the Forty-First Judicial District with one location in Hot Springs.

### **Criminal Record Sealing**

**ACT 341:** To Amend the Comprehensive Criminal Record Sealing Act of 2013

Sponsored by: Representatives Boyd (R), McCollum (R), C. Fite (R), Vaught (R), Lundstrum (R), Hawks (R), Crawford (R) M. McElroy (R); Senator B. Ballinger (R)

Before Act 341 was passed by the General Assembly, one was ineligible from having an offense sealed by the court if they had served any portion of their sentence in the Arkansas Department of Corrections. Act 341 changes that;

now, one is eligible to have their felony conviction sealed regardless of whether they were incarcerated for the offense or not. Additionally, Act 341 clarifies that one may petition for a court to have their criminal records sealed regardless of when they were convicted of a felony.

The law also requires prosecutors to file a notice of opposition with the court within thirty days of the uniform petition being filed. The court may only grant or deny the uniform petition after this thirty-day period has passed, and may set a hearing.

**ACT 690:** Concerning the Comprehensive Criminal Record Sealing Act of 2013; and Concerning Sealing a Felony Controlled Substance Conviction  
Sponsored by: Senator B. Ballinger (R)

Until the passage of Act 690, Arkansas law did not qualify between felony and misdemeanor convictions when it came to the procedures for sealing substance possession convictions. This law clarifies the statutes established by the Comprehensive Criminal Record Sealing Act of 2013. Specifically, Act 690 clarifies that those who have been convicted of felonies related to the possession of controlled or counterfeit substances are eligible to have their criminal records sealed once they complete their sentence.

### **Sentencing**

**ACT 695:** Concerning the Sentencing Procedure During a Capital Murder Trial in the Event of Error Occurring During the Sentencing Phase of the Trial  
Sponsored by: Representatives Underwood (R), Pilkington (R); Senator Hester (R)

Typically, two separate jury panels are selected during a capital murder trial: a panel that deliberates the verdict of a defendant, and a panel that deliberates the sentence of a defendant once they are declared to be guilty.

Act 695 allows that upon declaration of a mistrial during the sentencing proceeding, the prosecutor may request that the trial court: a) impose a sentence of life without parole; or the trial court may impose the sentence of life without parole without a hearing, or impanel a new sentencing jury.

Additionally, Act 695 allows a capital felony trial's guilty verdict to stand even if a mistrial was declared during the sentencing phase of a trial.

**ACT 821:** Concerning Habitual Offenders; and Requiring a Person Convicted as a Habitual Offender to Serve a Period of Time in Prison  
Sponsored by: Representative Gazaway (R)

Before Act 821, Arkansas statutes only required “habitual offenders” to pay a fine and potentially serve an extended term of imprisonment. Now, however, Arkansas law states that a person who is convicted as a “habitual offender”<sup>3</sup> must be given an extended sentence. The law does not define what constitutes an extended sentence, nor do they state how much a court must extend one’s sentence.

There is no impact statement on Act 821 and thus no way to approximate how this piece of legislation will affect Arkansas’s prison population. However, Act 821 will almost certainly increase the number of people incarcerated in Arkansas prisons.

### **Indigency**

**ACT 502:** Concerning Indigent Persons and the Use of a Public Defender  
Sponsored by: Representative Maddox (R)

Act 502 amends both the standards and process by which someone may be considered “indigent” — and thus eligible for the representation of a public defender — in an Arkansas court of law.

The Court may find indigency based on several different factors including; a receipt of public assistance, showing that they earn less than 200% of the federal poverty guidelines, or that they are incarcerated/currently admitted into a mental health facility. Moreover, Act 502 authorizes the court to request the past three years’ state income tax returns from the Department of Finance & Administration to determine if they are eligible to be qualified as “indigent.”

If the court does not find a person to be indigent after reviewing their certificate of indigency, Act 502 permits the court to determine whether a person qualifies using other factors such as the seriousness of the charges being faced, the person’s monthly expenses, private counsel rates, the property they own, any outstanding financial obligations they have, the person’s income or available funds from any other source, including public assistance, the person’s outstanding financial obligations, the existence, number, and ages of any dependents; the person’s employment and job training history; and the person’s highest level of formal education attained.

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<sup>3</sup> Arkansas law defines a “habitual offender” as someone who has been previously convicted or found guilty of more than one but less than four felonies.

The court will not appoint a person an attorney before it reviews the submitted certificate of indigency.

Before the passage of Act 502, Arkansas law did not describe what qualifies as evidence of “substantial financial hardship” or explicitly permit the court to use additional factors to determine a person’s indigency.

**ACT 1049:** An Act to Amend the Law Concerning the Suspension or Revocation of a Person’s Driver’s License for Failure to Pay or Failure to Appear; to Amend the Law Concerning a Restricted Driver’s Permit Issued Under Certain Circumstances; and for Other Purposes

Sponsored by: Senators A. Clark (R), C. Tucker (D), T. Garner (R), Gilmore (R); Representatives McCollum (R), A. Collins (D)

During the legislative session, decARcerate worked with partner organizations to support Act 1049, which aims to reduce the number of people who have their driver’s licenses suspended due to the failure to pay court fines and fees.

The law, sponsored by Senator Alan Clark, requires the court to schedule a non-payment hearing before they can suspend someone’s driver’s license due to the failure to pay any outstanding court fines and fees. The law states that a court may only suspend or revoke someone’s license if 1) the court sends a letter to the person beforehand stating that they are at risk of having their driver’s license suspended, and 2) the person does not make sufficient arrangements to appear within thirty days after failing to appear to their initial hearing. If the court finds that a person should be acquitted from the charge of failing to appear or pay a fine/fee, the person’s license will be reinstated at no cost.

The District Court also has the authority to authorize a restricted driving permit for a person whose license has been suspended for driving to places such as employment, court appearances, medical appointments, etc.

## **Juveniles**

**ACT 738:** To Allow the Public to Attend Hearings Concerning Child Support, Paternity, and Matters Heard Under the Arkansas Juvenile Code of 1989; and to Allow the Public to Obtain Certain Court Files and Records

Sponsored by: Senator Clark (R)

Juvenile hearings are currently closed under Arkansas law.

Act 738 allows members of the public to attend a dependency-neglect hearing if a member of the public is a relative, fictive kin, individual with a connection to the family, or someone with a legitimate and sincere need to

attend the hearing. If the court finds that one's attendance is not in the best interest of a child, however, they will not be allowed to attend the hearing. Any of the above individuals who are granted access to a dependency-neglect hearing via Act 738 are prohibited from disclosing any information obtained during the hearing. The law states that anyone who violates this clause is guilty of a Class C Misdemeanor.

**ACT 814:** To Amend the Law Concerning the Opportunity to Be Heard in Certain Hearings Held Under the Arkansas Juvenile Code of 1989; and to Amend the Definition of "parent" Under the Arkansas Juvenile Code of 1989  
Sponsored by: Representative Gazaway (R)

Before the Arkansas General Assembly passed Act 814, a child's foster parent, adoptive parent, pre-adoptive parent, or relative caregiver were permitted to be heard in any proceeding held with respect to a child in their care. Now, however, a foster parent, adoptive parent, pre-adoptive parent, or relative caregiver is prohibited from offering evidence to the court unless they are called as a witness.

Act 814 also expands the definition of "parent" in Arkansas state law to include someone who has otherwise established paternity or is listed as the parent on a child's birth certificate.

**ACT 813:** To Amend the Law Concerning Dependency-Neglect Petitions, Hearings, and the Termination of Parental Rights as it Relates to a Putative Parent Under the Arkansas Juvenile Code of 1989  
Sponsored by: Representative Gazaway (R)

This law allows putative parents to be named in a dependency-neglect and termination of parental rights petition if they may have a claim of paternity if they have established significant contacts with the juvenile, as demonstrated by a significant custodial, personal, or financial relationship with the juvenile; or that the person is listed on the Putative Father Registry.

Also, a putative parent who was not originally named as a party to the dependency-neglect petition shall be added as a party if: paternity is established and a court of competent jurisdiction enters an order establishing paternity between the juvenile and the putative parent, or the court determines that the putative parent is a parent as defined in [§ 9-27-303](#).

## **Other Notable Bills**

**ACT 824:** Expanding the Permitted Use of Courthouse Dogs for Vulnerable Witnesses

Sponsored by: Representative Gazaway (R); Senator Hester (R)

Under prior law, a minor under 18 was allowed the use of a certified facility dog (therapy dog). This Act expands that entitlement to a “vulnerable witness” defined as a person testifying in a criminal hearing or trial who has an intellectual and developmental disability or has significant impairment in cognitive functioning.

**ACT 799:** Concerning the Violation of a No Contact Order Issued by a Court in Relation to Certain Offenses, Including Sex Trafficking-Related and Terroristic Threatening Offenses

Sponsored by: Representatives Lundstrum (R), Bentley (R), M. Berry (R), Brooks (R), Brown (R), Christiansen (R), Cloud (R), C. Cooper (R), Crawford (R), Milligan (R), Richmond (R), Rye (R), Scott (D), B. Smith (R), Wing (R), Wooten (R); Senator Bledsoe (R)

Before Act 799, a court could only issue a no-contact order<sup>4</sup> if a defendant posed a threat of committing a serious crime or intimidating a witness. Now, Act 799 gives courts the authority to issue a no-contact order as a condition of release, if a person has been charged with terroristic threatening, false imprisonment in the first degree, or the trafficking of persons.

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<sup>4</sup> A “no-contact” order is an order that prohibits an accused person in a criminal case from directly or indirectly contacting someone in any manner or being within a certain distance of the person's home or place of employment.



### III. CORRECTIONS

At any given moment, 942 of every 100,000 Arkansans are housed in the state's prisons and jails, held in unsanitary conditions, denied proper healthcare, and forced to work without pay.<sup>5</sup> An even higher number of individuals are on probation and parole. These systems of state control make it nearly impossible for people to succeed and ultimately escape the subjugation of the carceral state.

#### **Incarcerated Persons**

**ACT 422:** Concerning Solitary Confinement or Restrictive Housing for Pregnant or Recently Pregnant Inmates or Detainees in the Division of Correction, in a Local or Regional Detention Facility, or in a Juvenile Detention Facility

Sponsored by: Representatives Scott (D), Pilkington (R), Gazaway (R); Senator A. Clark (R)

Act 422 prohibits the Department of Corrections from placing an incarcerated person in solitary or restrictive housing if they are pregnant, have been pregnant in the past 30 days, are breastfeeding, are suffering from postpartum depression, or are caring for a child. However, this law would not prohibit solitary/restrictive housing for those who are placed there for seriously injuring another incarcerated person or if doing so is necessary to prevent another incarcerated person's death/injury. This also applies to a juvenile in a juvenile detention facility.

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<sup>5</sup> <https://bit.ly/3kVDwks>

**ACT 1107:** An Act Requiring a Correctional or Detention Facility Operated by the Department of Corrections to Establish a Policy to Offer Mammograms and Prostate Screenings to Inmates and Detainees, as Appropriate

Sponsored by: Representatives Scott (D), Pilkington (R), Gazaway (R), M. Gray (R), V. Flowers (D), Boyd (R), Penzo (R), L. Johnson (R); Senators B. Ballinger (R), L. Eads (R), Elliott (D), J. English (R), T. Garner (R), Gilmore (R), Hester (R), G. Leding (D), C. Tucker (D)

Act 1107 requires Arkansas correctional facilities to offer incarcerated people a mammogram/prostate consultation or screening, depending upon the person's age. These services must be offered every two years at no cost to the incarcerated person.

### **Probation and Parole**

**ACT 946:** An Act Prohibiting Parole for a Person Convicted of the Offense of Possession of a Firearm by Certain Persons Under Certain Circumstances; to Declare an Emergency; and for Other Purposes

Sponsored by: Senators J. Dismang (R), Gilmore (R), T. Garner (R), K. Hammer (R), B. Johnson (R), D. Sullivan (R), Hill (R); Representatives Slake (R), Beaty Jr. (R), Watson (R), Crawford (R), C. Cooper (R), Bentley (R), Christiansen (R), Hollowell (R), Cavanaugh (R), McNair (R), Fortner (R), Nicks (D), Jean (R), Shepherd (R), Lynch (R), Evans (R), B. Smith (R), D. Garner (D), Dalby (R), Milligan (R), Cloud (R), Underwood (R)

Act 946 prohibits certain persons convicted of a prior felony who are later convicted of possession of a firearm under [§ 5-73-103](#) from obtaining parole.

A person who violates this section commits a Class B felony if they have a prior violent felony conviction, their current possession of a firearm involves the commission of another crime, or they have been previously convicted under this section or a similar provision from another jurisdiction.

A person who violates § 5-73-103 commits a Class D felony if they have been previously convicted of a felony and their present conduct or the prior felony conviction does not fall within subdivision (c)(1) of this section. Otherwise, the person commits a Class A misdemeanor.

This law ultimately undoes much of the progress made in reducing Arkansas' prison population over the last several years. According to the bill's fiscal impact statement, it would lead to an additional 2,413 people incarcerated by 2031 with a total of \$252,967,603.20 in tax-payer dollars. If the prison population grew at this rate, it would mean an additional prison (with an additional cost to taxpayers).

**ACT 327:** Concerning Probation and Parole; and Concerning Technical Violations and Length of Sanctions

Sponsored by: Representative Gray (R); Senator C. Tucker (D)

Before Act 327, Arkansas law did not explicitly deem absents oneself from parole or probation to be a conditions violation.

Now, Arkansas law states that someone who absents themselves from parole or probation for six months or more has committed a serious conditions violation, while someone who has absented themselves from supervision for six months or less has committed a technical conditions violation.

This law also reduces the amount of time that one may be incarcerated in a detention facility as a result of intermediate and technical conditions violations, depending upon which has been committed. Though the length of time depends upon where they are confined and the type of condition violated, each maximum confinement period was reduced by 33%. Someone who commits an intermediate conditions violation, for instance, will now serve no more than 120 days in a Division of Corrections/Community Corrections facility, rather than 180 days.

**ACT 55:** Concerning the Judicial or Administrative Transfer of an Inmate to the Division of Community Correction

Sponsored by: Representative Dalby (R)

Act 55 permits the administrative transfer of a person from the Division of Correction to the Division of Community Correction, so long as the Division does so according to the rules established by the Board of Corrections.

Before Act 55, Arkansas law did not account for the administrative transfer of an incarcerated person — they only accounted for an incarcerated person's judicial transfer.

### **Other Notable Bills**

**ACT 284:** Concerning the Division of Correction Inmate Farm Fund

Sponsored by: Representative Wardlaw (R)

Act 284 authorizes the Division of Community Correction to pay the Division of Correction Farm Fund an amount not exceeding fifty cents (50¢) for every dollar's worth of food they produce for those in the custody of the Division of Community Correction.

State law had only allowed the Division of Corrections to utilize funds to pay for the food produced by the Department of Corrections for incarcerated people's consumption before Act 284's passage. The Division of Community

Correction — and thus their practice of purchasing food produced by incarcerated people at a reduced price — had not been noted in the law.

**ACT 224:** Concerning the Prison Construction Trust Fund; and to Declare an Emergency

Sponsored by: Representative M. Gray (R); Senator J. Sturch (R)

This law allows certain parts of the Prison Construction Trust Fund to be segregated, held, and used by the Arkansas Development Finance Authority once the Secretary of the Department of Corrections and the Board of Corrections review and approve of its usage. These funds may be used to fund — or provide for the funding of — the construction, purchasing, or equipping of Department of Correction facilities.

Before Act 224, Arkansas law did not require the Secretary of the Department of Corrections and the Board of Corrections to review and approve the usage of these funds. Moreover, the law did not specify that these funds could be utilized to purchase things for Department of Correction facilities.

**ACT 497:** To Reorganize the Riverside Vocational and Technical School into the Corrections School System

Sponsored by: Senators Irvin (R), B. Davis (R), J. English (R), Bledsoe (R); Representatives Crawford (R), Dalby (R), Barker (R), Bentley (R), Brown (R), Cavanaugh (R), C. Fite (R), Haak (R), Lundstrum (R), Vaught (R), Speaks (R), J. Mayberry (R), McKenzie (R), M. Gray (R)

Act 497 incorporates the Riverside Vocational and Technical School into the Arkansas Correctional School District, where career and technical education must meet established industry needs.

**ACT 685:** Concerning Criminal Detention Facilities Review Committees

Sponsored by: Representative Slaughter (R)

The Office of the Detention Facilities Review Coordinators is responsible for promulgating the minimum standards of construction, maintenance, and operation of criminal detention facilities in the state of Arkansas.

House Bill 1120 — now Act 685 — eliminates gubernatorial oversight of the Office of the Detention Facilities Review Coordinators and instead places it under the supervision of the Secretary of the Department of Corrections. The Secretary of the Department of Corrections is now responsible for hiring the Office's Review Coordinator, assigning their duties, and approving facility inspections. Additionally, the hired Detention Facilities Review Coordinator is now required to report their findings to its district's criminal detention review committee.



#### IV. FINES, FEES, AND COURT COSTS

Every day, more than 400,000 people are sitting in our nation's jails separated from their loved ones, losing valuable income, enduring psychological trauma solely because they cannot afford to post bail.<sup>6</sup> Millions more are indebted to the court despite their cases having been long since settled, at risk of losing their driver's license or returning to jail due to their inability to pay.<sup>7</sup> Though these monetary penalties are intended to raise revenue for rising court costs, one thing is certain: our justice system shouldn't be funded on the backs of the poor.

##### **Bail**

**ACT 798:** Concerning Conditions of Release on Bail for Persons Arrested for Human Trafficking-Related Offenses

Sponsored by: Representatives Lundstrum (R), Speaks (R), Rye (R), Cloud (R), Bentley (R), McGrew (R), Hollowell (R), M. Berry (R), Milligan (R), Crawford (R), Bryant (R), Haak (R), Brooks (R), Brown (R), Christiansen (R), C. Cooper (R), Richmond (R), Scott (D), B. Smith (R), Wing (R), Wooten (R); Senator A. Clark (R)

This law prohibits someone arrested for the trafficking of persons, kidnapping, false imprisonment, or an offense that involves the taking or holding of a minor without consent to be released on bail unless certain requirements are met.

Someone arrested for these offenses may be released on bail, for instance, if they are given an ankle monitor, placed under house arrest, observe a curfew, abide by a no-contact order with the victim(s), abstain from illegal

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<sup>6</sup> <https://bit.ly/2Y2LwHx>

<sup>7</sup> <https://bit.ly/3ik2sjK>

substances, limit their internet access, relinquish their firearms, etc. If these terms are violated, a person will be placed in jail until the conclusion of their trial.

**ACT 991:** An Act Concerning Bail Bond Transparency; and for Other Purposes  
Sponsored by: Representative Scott (D), Representative Boyd (R), Senator Hester (R)

Gathering data is crucial to legitimizing our call to reform the cash bail system in the state of Arkansas.

Act 991 requires the Administrative Office of the Courts to report the bail data of any court that utilizes case management software. The types of data that these courts are required to report include a defendant's initial bail, length of pretrial detention, the disposition of any cash bail, any modifications to cash bail, and the most serious charge that someone is facing. Additionally, Act 991 requires the Administrative Office of the Courts to report the number of defendants with outstanding warrants for failure to appear as well as the number of defendants who reoffended while on bail.

The Office is required to present a written report on this data to the Legislative Council by July 1 and December 31 each year. The first written report is due to the Legislative Council by July 1, 2022.

### **Other Fines & Fees**

**ACT 625:** Concerning the Supervision Fee for Probation and Parole  
Sponsored by: Senator Gilmore (R)

Act 625 requires someone who is under the supervision of the Division of Community Correction via probation, parole, or transfer to pay to the division a monthly supervision fee of \$35. This fee cannot be increased or decreased by more than 20% of the amount of the monthly supervision fee assessed at the time of the change, cannot exceed \$50 a month, and cannot be changed more than once in two years. Moreover, Act 625 requires that a thirty-day notice must be given to all those who would be subjected to the fee.

Before the passage of Act 625, the monthly supervision fee was \$35 but could not increase/decrease on a monthly basis.

**ACT 702:** Concerning the Fee Charged for a Phone Call by an Inmate in a Correctional Facility

Sponsored by: Senator A. Clark (R); Representative A. Collins (D)

Going into the 93rd legislative session, incarcerated people in Arkansas paid on average more to use the phone than those incarcerated in any other state. While someone incarcerated in Arizona may pay \$11.70 for a twenty-five-minute phone call, someone calling from the Baxter County Sheriff's Office would be charged a whopping \$38.70 to use the phone for the same period.

Act 702 attempts to change that, and places limitations on how much a correctional facility can charge incarcerated people to use the phone.

For intrastate phone calls made from a Department of Correction or Department of Community Correction facility, the cost per minute will not be more than the maximum cost of an interstate inmate telephone call as determined by the Federal Communications Commission.

For a person in prison making an intrastate telephone call from a regional or local detention facility, 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.

This law would additionally prohibit the levying of any ancillary charges, except an ancillary service charge of a type and up to an amount authorized by the Federal Communications Commission for an interstate telephone call.

**ACT 500:** Concerning Victim Impact Panel Attendance Required for Persons Who Commit Alcohol-Related Offenses

Sponsored by: Representative Wardlaw (R); Senator Bledsoe (R)

In the state of Arkansas, someone who has had their driving privileges suspended or revoked for committing an alcohol-related offense is required to attend a victim impact panel provided by a state-approved organization. Act 500 increases this program's fee to \$40 per enrollee. If one is incarcerated, however, the fee levied for the victim impact panel is prohibited from exceeding \$10.

Before Arkansas lawmakers passed Act 500, all who were required by law to attend the victim impact panel— incarcerated or otherwise— were required to pay a fee of \$10.

**ACT 258:** To Amend the Law Concerning Certain County Electronic Payments and File Maintenance

Sponsored by: Representative Underwood (R); Senator B. Ballinger (R)

Act 258 permits a county to accept the payment of certain fines and fees via an approved credit or debit card.



## V. JUVENILES

Unlike the 2019 legislative session, the Arkansas General Assembly did not pass a great deal of legislation that aimed to significantly reform the juvenile justice system. In fact, only two laws were passed that dealt specifically with juvenile justice, and both made primarily minor, technical changes to pre-existing statutes.

**ACT 1034:** Amending the Fair Sentencing for Minors Act  
Sponsored by: Senator G. Leding (D)

In 2017, the Arkansas General Assembly passed the Fair Sentencing of Minors Act, which abolished imprisonment without parole for juveniles and made those who had been sentenced to life without parole as minors eligible for parole after they complete a minimum of 25 years of their sentence.

Though the Fair Sentencing of Minors Act has succeeded in spurring the release of dozens of people sentenced to life without parole as minors, there has been some controversy as to whether the Fair Sentencing of Minors act applied retroactively to non-homicide offenses. In February 2021, the Arkansas Supreme Court blocked the parole of 56-year-old Terrance Proctor. Proctor was sentenced to life in 1983 after pleading guilty to robbery and 10 counts of aggravated robbery on the advice of his attorney. The justices ruled that the Fair Sentencing of Minors Act did not apply retroactively to non-homicide offenses.

Act 1034 applies the Fair Sentencing of Minors Act retroactively to non-homicide offenses, effectively overruling and making void the Arkansas Supreme Court ruling that it did not apply retroactively to non-homicide offenses. Therefore, those who are sentenced as a minor for an offense that

did not result in the death of another are eligible for parole twenty years after incarceration.

**ACT 187:** To Allow Confidential Juvenile Records to Be Released to the Department of Corrections

Sponsored by: Representatives C. Fite (R), Scott (D); Senator D. Wallace (R)

House Bill 1245, now Act 187, allows confidential juvenile records to be released to the Department of Corrections for the purpose of creating a risk assessment, classification plan, or supervision plan for certain juveniles. Specifically, the risk assessment would be created for those juveniles who are under extended supervision of the court and enter the custody of the Department of Corrections as an adult from the Division of Youth Services.



## VI. LAW ENFORCEMENT

In the wake of the summer's Black Lives Matter protests and a national call to defund the police, the 93rd General Assembly passed a flurry of laws that aimed to protect and expand the rights of the state's law enforcement officers. Though lawmakers passed some legislation that enhanced training requirements and offered alternative means to arrest, the vast majority of the legislation passed by Arkansas lawmakers strove to reduce officer accountability, restrict people's right to protest, and further weaponize our already militarized police force. Arkansans are less safe because of it.

### **Officer Training**

**ACT 792:** To Require Training Concerning a Law Enforcement Officer's Duty to Intervene When the Law Enforcement Officer Observes the Use of Excessive Force by Another Law Enforcement Office

Sponsored by: Representative Tosh (R); Senator Wallace (R)

Act 792 requires all Arkansas law enforcement officers to complete an annual duty to intervene training related to their "duty to intervene" when they observe the use of excessive force by another law enforcement officer.

**ACT 325:** Concerning the Reimbursement of Law Enforcement Training Costs or Expenses

Sponsored by: Senator K. Ingram (R); Representative Perry (R)

Under Act 325, state-funded or municipally operated law enforcement officers are now able to be reimbursed for any costs or expenses incurred during officer training. Previously, Arkansas law only held that state law enforcement officers were eligible to be reimbursed for training costs.

## **Retirement**

**ACT 344:** To Amend the Law Concerning the Reemployment of Certain Retired Members of the Arkansas Local Police and Fire Retirement System  
Sponsored by: Representative Tosh (R); Senator D. Wallace (R)

Act 344 cuts in half the amount of time that a retired firefighter or police officer must be retired before they return to employment. A former service member only needs to be retired for 90 days (rather than 180) before returning to work. They can also return to work for the same employer they retired from, so long as they work in an entry-level position; however, Act 344 states that this does not apply for retirees who return to work to a position appointed by a mayor, city manager, or city administrator.

**ACT 72:** To Amend the Law Concerning Disability Retirement, Employer Accumulation Accounts, and Employer Contributions Under the Arkansas Local Police and Fire Retirement System; and to Declare an Emergency  
Sponsored by: Senator Sample (R)

This law, among other things, requires any duty disability retirement that is awarded to a retired law enforcement officer/firefighter on or after April 1, 2021, to be classified as catastrophic, hazardous, or ordinary duty disability in accordance with the criteria set by the Board of Trustees of the Arkansas Local Police and Retirement System. It also states that a law enforcement officer or firefighter who comes out of retirement and then becomes disabled is not eligible for any duty disability retirement benefits.

## **School Resource Officers**

**ACT 551/ACT 622:** To Require a School District Board of Directors and Local Law Enforcement Agency to Adopt a Memorandum of Understanding Governing School Resource Officers; and to Require School Resource Officers Complete Specialized Training  
Sponsored by: Senator Irvin (R); Representatives Scott (D), Cozart (R), L. Johnson (R), Slape (R)

Under Acts 551 and 622—two identical pieces of legislation—all Arkansas school districts are now required to adopt a memorandum of understanding governing their school resource officers. Within these memorandums of understanding, the financial responsibilities, chain of command, evaluation, training requirements, roles/responsibilities, the use of physical restraints/chemical sprays, and the process of arresting a minor on campus should all be outlined for a district's school resource officers. School resource officers must complete additional training every five years, and this law prohibits a school resource officer who fails to acquire this training from working in a school setting until they do so.

**ACT 535:** To Amend the Law Concerning Law Enforcement Agencies for Private Colleges and Universities; and to Allow Private Schools to Establish and Appoint an Institutional Law Enforcement Officer

Sponsored by: Senators L. Eads (R), B. Davis (R); Representative Lundstrum (R)

In 2019, the Arkansas General Assembly passed [Act 629](#), which allowed charter and public enrollment schools to create police departments in their school districts. During this legislative session, the General Assembly extended this privilege to private schools. With the passage of Act 535, private schools are now able to establish an institutional law enforcement force. These law enforcement officers are held to the same standards as law enforcement officers at public universities.

### **Arrest**

**ACT 587:** Permitting a Law Enforcement Officer to Transport a Person in Crisis to a Sobering Center

Sponsored by: Representatives Boyd (R), L. Johnson (R), Richardson (D), Crawford (R), Richmond (R), Senator J. Sturch (R)

When a law enforcement officer detains an intoxicated person, it is typical practice for the officer to arrest the person and place them in jail, often charging them with misdemeanors in the process. Act 587, however, authorizes a law enforcement officer to bypass jail altogether. Specifically, the law states that a police officer may, in the exercise of “reasonable discretion,” transport an intoxicated person to a sobering center for treatment as an alternative to detention. Once a person is admitted to a sobering center, they are no longer considered to be detained or legally in the custody of law enforcement. The law prohibits someone accused of boating or driving while intoxicated from being transported to a sobering center.

Act 587 protects a law enforcement officer acting in good faith transporting an intoxicated person to a sobering center from civil or criminal liability.

**ACT 147:** Concerning the Drawing of a Person’s Blood When a Person Was Operating or in Actual Physical Control of a Motorboat or Motor Vehicle While Intoxicated

Sponsored by: Representative Dalby (R)

Before Act 147, Arkansas law enforcement officers were required to obtain a warrant based on probable cause in order to test a person’s blood who they believed was operating a motorboat while intoxicated. While this is still predominantly the case in Arkansas law, Act 147 would also allow law enforcement officers to test the blood of someone they suspect to have been boating while intoxicated without a warrant if there are “exigent circumstances” or the person gives consent to the blood draw.

## **“Back the Blue”**

**ACT 186:** Concerning Unified Command of Law Enforcement Agencies in and around the State Capitol in the Event of a Civil Disturbance or State of Emergency  
Sponsored by: Senator Wallace (R), Representative Berry (R)

This law allows the governor, in “the event of a civil disturbance or a crime in progress that requires additional law enforcement resources,” to establish a system of unified command of law enforcement efforts. When establishing a system of unified command, the governor may designate which law enforcement agency has primary jurisdiction in the State Capital building and on its grounds.

**ACT 184:** To Amend the Law Concerning the Powers, Duties, and Immunities of the Militia  
Sponsored by: Representative Berry (R), Senator T. Garner (R)

Act 184 states that in addition to all the powers, duties, and immunities granted to them when they are in service, a member of an “organized militia” has all the powers, duties, and immunities of a law enforcement officer in the state of Arkansas. Consequently, members of an “official militia”— like members of Arkansas law enforcement— are protected from being arrested while going to, remaining at, or returning from a place where they are ordered to attend for military duty. This immunity does not hold, however, if they are suspected to have committed treason or a felony.

**ACT 714:** The Back the Blue Act  
Sponsored by: Senator Hester (R)

Originally, the “Back the Blue Act” aimed to prohibit municipalities from defunding the police. In fact, if passed in its original form, Act 714 would have prohibited cities from cutting more than 25% of their funding for law enforcement.

However, the “Back the Blue Act” did not pass in its original form and was instead amended heavily. Today, the Back the Blue Act requires first-class cities to establish a municipal police department or otherwise contract law enforcement services. These cities must provide their police departments with “the proper means and equipment” to perform their duties. Additionally, Act 714 authorizes— but does not require— second-class and incorporated towns to establish or contract a municipal police department.

**ACT 627:** Concerning Qualified Immunity; and to Amend § 21-9-301  
Sponsored by: Senator K. Hammer (R); Representative Warren (R)

Act 627 extends qualified immunity<sup>8</sup> to law enforcement officers working in a public or private institution of higher education.

**ACT 786:** Establishing the Public Safety Equipment Grant Program; and to Declare an Emergency  
Sponsored by: Senators Rapert (R), B. Johnson (R); Representatives Watson (R), M. Berry (R), Hollowell (R), McClure (R), Bentley (R), Beck (R), Rye (R), Crawford (R), C. Cooper (R), Slape (R)

Act 786 creates the Public Safety Equipment Grant Program, a grant program that would allow law enforcement agencies to seek and apply for federal, state, and local funding to acquire body cameras and “other nonlethal forms of equipment.” The law defines other nonlethal forms of equipment as “including but not limited to conducted electrical devices, rubber bullets, pepper spray, and bulletproof vests.”

### **Other Notable Bills**

**ACT 800:** To Be Known as the “Arkansas Phoenix Act of 2021”; Concerning the Statute of Limitations for Certain Offenses; and Concerning the Training Given to Law Enforcement Officers for Situations in Which Domestic Violence Is Suspected  
Sponsored by: Representatives Gazaway (R), Clowney (D); Senators C. Tucker (D), Bledsoe (R), Hester (R)

The Arkansas Phoenix Act of 2021 amends the statute of limitations for domestic violence offenses that occur after August 2nd, 2021. Specifically, Act 800 would allow someone to be prosecuted for domestic violence offenses that occurred within three or five years of the statute of limitations expiring (depending on the level of the original offense) if the offense has not previously been reported and the accused confesses, DNA or other types of evidence were discovered, or three or more people who were also victimized by the accused present other evidence of the commission of the offense.

Additionally, the Arkansas Phoenix Act expands upon the topics that must be covered in law enforcement officers’ mandatory domestic violence training. Examples of the new topics include the signs of offenses involving a family member, the legal rights of victims, and the context on how communities of color are impacted by incarceration and violence.

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<sup>8</sup> Qualified immunity protects law enforcement from personal liability unless they are determined to have violated what the court defines as an individual’s “clearly established statutory or constitutional rights.”

**ACT 550:** Concerning the Use of an Administrative Subpoena by the Division of Arkansas State Police in an Investigation Concerning an Internet Crime Against a Minor

Sponsored by: Senator Irving (R); Representative Cavanaugh (R)

Act 550 authorizes the Arkansas State Police to issue an administrative subpoena when a) the investigation involves the sexual exploitation of a minor, and b) there is reason to believe that the internet was used in such exploitation. An administrative subpoena may produce names, addresses, telephone/internet connection records, and/or the sources of payment for an electronic service. An electronic communication service provider is not authorized to disclose any in-transit electronic communication, memberships related to specific areas of interest, account passwords, or other types of account content as part of an administrative subpoena.

**ACT 1023:** To Be Known as the "Arkansas Civil Asset Forfeiture Reform Act of 2021"; and for Other Purposes

Sponsored by: Senator A. Clark (R); Representatives McCollum (R), Underwood (R), V. Flowers (D), Richardson (D), Gonzales (R)

Civil asset forfeiture is a legal process in which law enforcement officers seize and then forfeit the property of those suspected of involvement in illegal activity without necessarily convicting the property owners of wrongdoing. The Arkansas Civil Asset Forfeiture Reform Act of 2021 enhances the burden of proof required for the state to forfeit the property they seized from a citizen. The extent to which the state must prove that the property owner is "guilty" depends on whether the person whose property was seized was arrested at the time of its seizure.

However, Act 1023 continues to allow the state to seize one's property by default if they fail to navigate the civil complaint processes, though it does create a separate civil complaint process altogether for third-party property owners.

**ACT 747:** Concerning Critical Incident Debriefing for Law Enforcement Officers

Sponsored by: Representatives Richardson (D), Slape (R), Dotson (R); Senator B. Davis (R)

Act 747, previously House Bill 1680, requires law enforcement officers to debrief with a mental health professional or peer support member after experiencing an adverse critical incident that may impact their psychological health. The law defines a "critical incident" as an event that has a stressful impact sufficient to overwhelm a person's usually effective coping skills, including an event that falls outside the range of ordinary human experience.

**ACT 93:** To Amend the Duties of the Secretary of the Department of Public Safety  
Sponsored by: Representative Watson (R)

Act 93 requires the Secretary of the Department of Public Safety to be classified and designated as a law enforcement officer.



## VII. MODIFIED OFFENSES

During the 93rd General Assembly, Arkansas lawmakers modified the definitions and penalties of numerous criminal offenses. Though the General Assembly passed several laws that reduced the penalties of criminal offenses, penalty enhancements were by far the most common modification sought by legislators. These offense enhancements will likely expand the reach of the carceral state and further exacerbate overcrowding in Arkansas detention facilities.

### **Enhancements**

**ACT 681:** Delaying Release from Prison for Certain Offenders Until the Offender Has Served at Least Eighty Percent (80%) of His or Her Sentence; Creating Penalties for False Reporting to Law Enforcement; and Creating a Registry  
Sponsored by: Senators Hickey (R), A. Clark (R); Representatives Shepherd (R), Dalby (R)

Act 681, touted as a hate crimes bill prevents someone convicted of an offense committed under “aggravated circumstances” from being released on parole until they serve at least 80% of their sentence. Typically, an incarcerated person is eligible for parole after serving one-third of their sentence.

The law broadly defines an offense committed under “aggravated circumstances” as one where the person selects a victim because of their association with a recognizable and identifiable group or class who share mental, physical, biological, cultural, political, or religious beliefs or characteristics.

**ACT 264:** To Amend the Law Concerning the Unlawful Passing of a School Bus  
Sponsored by: Representatives Boyd (R), Representative Crawford (R), Senator L. Eads (R)

This law clarifies the places upon which someone may be prohibited from passing a stopped school bus. Specifically, Act 264 states that one is unlawfully passing a school bus while operating a vehicle on a public road/street/highway, public or private property open to the general public, or a public or private road/driveway/parking lot belonging to a K-12 school.

Additionally, Act 264 specifies that someone operating a motor vehicle must stop at least thirty feet away from a stopped school bus.

**ACT 558:** To Amend the Law Concerning the Penalty for a Driver Who Fails to Remain at the Scene of an Accident That Results in Death or Personal Injury  
Sponsored by: Representatives C. Fite (R), McCullough (R); Senator B. Ballinger (R)

Act 558 enhances the penalty for a driver convicted of failing to remain at the scene of an accident that results in death. Before the passage of Act 558, failing to remain at the scene of a deadly accident was designated as a Class D felony.

Under Act 558, if the accident resulted in physical injury to another person, he or she shall upon conviction be deemed guilty of a Class D felony; or if serious physical injury to or death of another person, he or she upon conviction is guilty of a Class B felony.

**ACT 597:** Concerning the Offenses of Voyeurism and Video Voyeurism  
Sponsored by: Representative A. Collins (D); Senator T. Garner (R)

Act 597 enhances the penalty of voyeurism to a Class C Felony if the victim is under the age of 14. Under previous law, there was no separate penalty for voyeurism committed against certain age groups.

**ACT 887:** Concerning the Controlled Substances of Fentanyl and Heroin  
Sponsored by: Representative Gazaway (R)

Act 887 enhances the penalty for the possession, delivery, and trafficking of heroin. The possession of heroin with the purpose of delivery coincides with a Class B or C felony (depending upon the amount possessed), the delivery of heroin coincides with a Class Y felony, and the trafficking of heroin coincides with a Class Y felony as well.

Act 887 also creates offenses for the possession, possession with the intent to deliver, and delivery of fentanyl. The possession of fentanyl coincides with

a Class C felony, possession of fentanyl with the intent to deliver coincides with a Class A felony, and the delivery of fentanyl coincides with a Class Y felony.

Additionally, Act 887 creates an offense for the manufacturing of heroin and fentanyl, which coincides with a Class B, C, or Y felony, depending on the amount manufactured.

**ACT 722:** Concerning the Penalties for the Offense of Fleeing in a Vehicle or Conveyance

Sponsored by: Senator Hendren (I), Representative Slape (R)

This law enhances the penalty for driving over the speed limit in order to flee from the police from a Class A Misdemeanor and two days in jail to a Class D Felony with thirty days in jail. Before Act 722, there was no separate penalty for those who drive over the speed limit in order to flee law enforcement.

**ACT 713:** Concerning Damage, Destruction, or Vandalism to Buildings and Objects on the State Capitol Grounds, on the Capitol Mall, and at the Governor's Mansion  
Sponsored by: Representative Rye (R)

Act 713 enhances the penalty for those who are found guilty of vandalizing, destroying, or otherwise damaging “publicly owned monuments” or buildings on the state capitol grounds, capitol mall, or governor’s mansion. If someone is found guilty of doing such, they face a Class A Misdemeanor, Class D Felony, Class C Felony, or Class B Felony, depending on the severity of the damage done.

Prior to Act 713, the offense was defined as “defacing an object of public respect” which has now been defined more clearly to include “defacing or damaging a public building or object of public respect”; and the statute now specifies that this applies to the State Capitol Building, any building on the State Capitol grounds, any building on the Capitol Mall, any building on the grounds of the Governor’s Mansion, or any publicly owned monument, statue, fixture, or landscape on the State Capitol grounds, Capitol Mall, or Governor’s Mansion.

In Act 713, a “publicly owned monument” is defined as an object on public land that commemorates a person/persons, an event that has become relevant to a social group as part of the social group’s remembrance of historical times, or an object is part of the social group’s cultural heritage due to its artistic, historic, social, political, technical, or architectural importance.

**ACT 596:** Concerning the Offense of Aggravated Assault Upon a Law Enforcement Officer or an Employee of a Correctional Facility; and to Declare an Emergency  
Sponsored by: Representative Dalby (R); Senator Rice (R)

Before the passage of Act 596, the offense of aggravated assault upon a law enforcement officer or employee of a correctional facility had not explicitly defined “contact with.” It is assumed that they only understood “contact with” to mean to come in contact with one’s skin.

Act 596 extends the definition of “contact with” to not only mean to come in contact with one’s skin, but with an officer’s face covering, a glove or the uniform of a law enforcement officer or employee of a correctional facility.

**ACT 274:** To Increase the Lookback Period for Prior Convictions of Boating or Driving While Intoxicated for the Purpose of Sentence Enhancement  
Sponsored by: Representatives Wardlaw (R), Fite (R); Senator Hammer (R)

Act 274 increases the lookback period<sup>9</sup> for a boating or driving while intoxicated offense from 5 years to 10 years for those who have committed the offenses five times or less, and from 10 years to 20 years for a sixth or subsequent offense.

### **Reductions**

**ACT 453:** Concerning the Application of the Offense of Possession of Drug Paraphernalia in Regards to the Habitual Offender Sentence Enhancement; and Concerning the Offense of Drug Paraphernalia  
Sponsored by: Representative Gazaway (R)

Act 453 amends how the court perceives drug paraphernalia and possession of controlled substances charges when they are looking to apply a habitual offender sentence enhancement.

Before Arkansas lawmakers passed Act 453, the court understood drug paraphernalia and possession of controlled substance charges to be separate, even when they stemmed from the same set of facts. Act 453 changes that. Now, drug paraphernalia and possession of controlled substances charges are to only be considered one offense when the offenses arose from the same set of facts.

Additionally, Act 453 holds that someone can only be convicted of a Class D felony for the possession of drug paraphernalia if the controlled substance is

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<sup>9</sup> A look-back period is defined as the period of time that the legal system can look back for previous convictions. Former convictions that fall within this look-back period may be considered when the state is considering penalty enhancement.

meth, heroin, fentanyl, or cocaine and they have previously been convicted on a drug paraphernalia charge. Act 453 also reduces the penalty for the possession of drug paraphernalia with the intent to produce a controlled substance from a Class B felony to a Class D felony, so long as the controlled substance is not meth, heroin, fentanyl, or cocaine.

**ACT 556:** Concerning the Possession and Use of Pepper Spray or Tear Gas  
Sponsored by: Representatives Boyd (R), B. Ballinger (R)

Act 566 increases the amount of tear gas or pepper spray that a person may possess before it is considered unlawful from 150 mL to 300 mL.

**ACT 784:** To Amend the Law Concerning Penalties for a Violation of the Mandatory Seat Belt Use Law  
Sponsored by: Senator Flippo (R)

Act 784 limits the maximum fine that localities can place on a person who violates the mandatory seatbelt law to \$45. Before its passage, Arkansas statutes only established a minimum fine of \$25 unless a locality had another law in place with a higher fee. There was no limit to how high the fine could be.

### **Modified Definitions**

**ACT 140:** Concerning the Definition of "critical Infrastructure" in Regards to the Offense of Unlawful Use of an Unmanned Aircraft System  
Sponsored by: Senator Rice (R), Representative Flippo (R)

Act 140 modifies the definition of "critical infrastructure" as it pertains to the offense of the unlawful use of an unmanned aircraft system to include food processing facilities, manufacturing facilities, and correctional/detention facilities.

**ACT 250:** Concerning the Defense of a Person with the Use of Physical Force or Deadly Physical Force  
Sponsored by: Senators B. Ballinger (R), Rapert (R), G. Stubblefield (R), T. Garner (R), B. Johnson (R), Flippo (R), Hester (R), D. Wallace (R), Hill (R), Irvin (R), M. Johnson (R), Beckham (R), Gilmore (R), Rice (R); Representatives Pilkington (R), Ray (R), Beaty Jr. (R), Wardlaw, C. (R), Cooper (R), Rye (R), Richmond (R), Gonzales (R), Cavanaugh (R), McCollum (R), Breaux (R), Bentley (R), Underwood (R), Cloud (R), Crawford (R)

Act 250, more commonly known as this session's "Stand Your Ground" law, eliminates one's duty to retreat before inflicting deadly physical force in self-defense.

The law states that one does not have the duty to retreat if they are lawfully present at the location where deadly force is used, have a reason to believe that they are being imminently threatened by the person they utilize the deadly force against, are not the initial aggressor, are not unlawfully in possession of a firearm, and are not engaged in criminal activity/the furtherance of a criminal enterprise.

**ACT 712:** Concerning Offenses Committed Against Critical Infrastructure

Sponsored by: Representatives Gazaway (R), Boyd (R), Bryant (R), Cloud (R), Dalby (R), L. Fite (R), M. Gray (R), Haak (R), Hawks (R), Hillman (R), Jean (R), L. Johnson (R), J. Mayberry (R), McCollum (R), Ray (R), Underwood (R); Senators A. Clark (R), Hester (R), Rapert (R)

Act 712 defines critical infrastructure and applies it to criminal mischief, trespassing, and burglary offenses.

The General Assembly defines critical infrastructure as a facility that is designed to exclude unauthorized persons from entry. Examples of critical infrastructure include water treatment facilities, natural gas facilities, mining operations, etc.

**ACT 512:** To Amend the Offenses of Battery in the Second Degree and Domestic Battering in the Second Degree

Sponsored by: Representative Gazaway (R)

Act 512 amends the offenses of battery in the second degree and domestic battery in the second degree. Now, one can be found guilty of either offense if they are found to have recklessly caused serious injury to a child 4 years or age or younger.

**ACT 514:** Concerning the Scheduling of a Schedule Vi Controlled Substance

Sponsored by: Representative Boyd (R)

This act holds that a prescription drug approved by the United States Food and Drug Administration is excluded from being considered a Schedule VI Controlled Substance, so long as the Secretary of the Department of Health does not object.



## VIII. NEW OFFENSES

During the legislative session, Arkansas legislators passed an array of laws that created new criminal offenses. Offenses related to the criminalization of abortions were of particular focus of the Arkansas General Assembly as the state's legislators raced to become the state responsible for reversing *Roe v. Wade*. Arkansas lawmakers passed 20 abortion-related restrictions, tying Louisiana's 1978 record for the most restrictions passed in a single year.<sup>10</sup>

### **Abortion and Reproductive Rights**

**ACT 90:** To Create the Every Mom Matters Act; to Provide Healthcare Support to Pregnant Women in Arkansas; and to Stabilize Families and Reduce the Number of Abortions Performed in the State

Sponsored by: Representatives Dotson (R), Vaught (R), Breau (R), Rye (R), Haak (R), M. Berry (R), Ladyman (R), Milligan (R), Cloud (R), Coleman (R), Lundstrum (R), McCollum (R), Hawks (R), Bentley (R), Payton (R), Miller (R), Richmond (R); Senator B. Ballinger (R)

Act 90 requires that a person seeking an abortion meet with a “resource access assistance officer” before receiving an abortion so long as it is not a medical emergency. A resource access assistance officer will be expected to inform a woman of public and private resources, offer screening and assistance to victims of abuse/assault/human trafficking, and of “medically accurate information using the informational materials” described in the act. If a resource access assistance officer is not available on-site, Act 90 requires that a toll-free number be established for these women to call. A woman is not required to utilize any of the resources that a resource access assistance

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<sup>10</sup> <https://bit.ly/39TLvbu>

officer provides in order to receive an abortion.

If a provider is found to not have had a resource access assistance officer meet with a woman seeking an abortion, then the provider will be fined \$5,000 per violation. If these violations constitute more than 5% of an abortion clinic's audited medical records, the Department of Health will revoke the clinic's license.

**ACT 309:** To Create the Arkansas Unborn Child Protection Act

Sponsored by: Senators Rapert (R), T. Garner (R), G. Stubblefield (R), B. Ballinger (R), Bledsoe (R), A. Clark (R), L. Eads (R), J. English (R), Flippo (R), Gilmore (R), K. Hammer (R), Hester (R), Hill (R), Irvin (R), B. Johnson (R), D. Sullivan (R), D. Wallace (R), Beckham (R), M. Johnson (R); Representatives Bentley (R), Gazaway (R), M. Berry (R), Bragg (R), Breaux (R), Brooks (R), Cloud (R), C. Cooper (R), Cozart (R), Crawford (R), Dotson (R), Evans (R), Hillman (R), Lowery (R), J. Mayberry (R), McCollum (R), McNair (R), Milligan (R), Payton (R), Pilkington (R), Ray (R), B. Smith (R), Tosh (R), Underwood (R), Vaught (R), Wardlaw (R), Watson (R), Beaty Jr. (R), Lundstrum (R), Richmond (R)

Act 309 abolishes abortion in the state of Arkansas and prohibits someone from either performing or attempting to perform an abortion except to save the life of a pregnant woman in a medical emergency. Those found guilty of performing or attempting to perform an abortion will be convicted of an unclassified penalty and given a fine that is no more than \$100,000, sentenced to no more than ten years in prison, or both. The law does not allow the state to convict a woman of any criminal offense in the death of her unborn child.

Immediately after Act 309 was signed into law by the governor, however, the ACLU filed a lawsuit challenging the law. On July 20th, 2021, an Arkansas federal district court granted the plaintiffs a preliminary injunction and blocked Act 309 from officially becoming law.

**ACT 560:** To Create the Informed Consent for Chemical Abortion Act

Sponsored by: Representatives Lundstrum (R), Bentley (R), Cloud (R), Coleman (R), Crawford (R), Dotson (R), Ladyman (R), Lowery (R), Miller (R), Payton (R), Penzo (R), Pilkington (R), Speaks (R), Wardlaw (R); Senators Flippo (R), Bledsoe (R), Gilmore (R), D. Sullivan (R), D. Wallace (R)

Act 560 requires, among other things, that healthcare providers deliver certain information — both orally and in-person — to a pregnant woman at least 72 hours before they receive a chemical abortion to constitute informed consent. Examples of the types of information that must be relayed to pregnant women include the details and risks associated with chemical abortion, information about Rh incompatibility, post-abortion care in case of complications, etc. The woman must certify that she received all information before receiving a chemical abortion, and individual reporting forms must be

submitted to the Department of Health at the end of the month.

A person who knowingly, recklessly, or negligently defies this statute is to be guilty of a Class A misdemeanor and may be subject to civil malpractice action or professional disciplinary action. A civil penalty will not be assessed against the woman for whom the abortion is performed.

**ACT 609:** To Create the Criminal Offenses of Fertility Treatment Abuse and Fertility Treatment Fraud; and to Create the Civil Action of Civil Fertility Fraud

Sponsored by: Senators Beckham (R), B. Ballinger (R), Bledsoe (R), L. Chesterfield (D), Elliott (D), Flippo (R), Gilmore (R), B. Johnson (R), M. Johnson (R); Representatives Gazaway (R), Beaty Jr. (R), S. Berry (R), Brown (R), Cloud (R), Furman (R), Jean (R), McCollum (R), Richmond (R), Scott (D), Wardlaw (R)

Act 609 creates the criminal offenses of fertility treatment abuse and fertility treatment fraud.

The law states that someone commits fertility treatment abuse if the person is a healthcare provider who, in the course of performing an assisted reproduction procedure on a person, knowingly uses unauthorized human reproductive material. Fertility treatment abuse is considered a Class B felony, which is punishable by a fine of up to \$15,000 and a five to a twenty-year prison sentence.

Additionally, the law states that someone commits fertility treatment fraud if a person purposefully misrepresents the identity of the person who has donated/is donating human reproductive material and/or misrepresents the quality of the material or fertility treatment procedure. Fertility treatment fraud is a Class C felony, which is punishable by three to ten years in prison and a fine of up to \$10,000.

Act 609 also allows people to sue a practitioner for fertility treatment fraud.

**ACT 787:** To Amend the Laws Regarding Abortion Reporting and Inspections of Abortion Facilities; and to Require Certain Documentation Be Presented Before Performing an Abortion When the Pregnancy Is a Result of Rape or Incest  
Sponsored by: Senator B. Johnson (R); Representative Furman (R)

This law, among other things, creates criminal penalties for 1) notifying an abortion clinic ahead of time that a state department will conduct an inspection at a specific date/time, and 2) knowingly concealing or removing information that is relevant to an inspection of an abortion clinic. A person who does either will be guilty upon conviction of a Class A misdemeanor.

## **Other Notable Bills**

**ACT 340:** Concerning the Theft of a Postal Package Delivered to a Person's Residence and Left Within the Curtilage of the Residence; to Make Technical Corrections; and to Declare an Emergency

Sponsored by: Representatives L. Johnson (R), Richmond (R), M. Davis (R), Maddox (R), Vaught (R), Lundstrum (R), C. Fite (R), Wardlaw (R), Boyd (R), Crawford (R), Richardson (D); Senator Hester (R)

Act 340 provides that someone commits a Class D felony if they steal a postal package removed from a residence or the residential curtilage or a delivery vehicle at any point along the delivery route.

**ACT 351:** Prohibiting the Use of a Hoax Bomb

Sponsored by: Representative Shepherd (R); Senator T. Garner (R)

Act 351 prohibits knowingly delivering or causing the delivery of a hoax bomb to a governmental facility, school, business, hospital, office building, or similar facility open to the public with the purpose of causing anxiety, fear, or the evacuation of the facility. Those found guilty of using a hoax bomb are to be convicted of a Class C Felony, which is punishable by three to ten years in prison and a fine of up to \$10,000.

Before, Arkansas law only prohibited hoax substances, with the use of a hoax substance constituting a Class D Felony. Act 351 enhanced the penalty for the use of a hoax substance to a Class C Felony, like the utilization of a hoax bomb.

**ACT 375:** To Prohibit the Unlawful Doxxing of a Minor on Social Media

Sponsored by: Senator Garner (R)

This law prohibits the doxxing of a minor on a social media platform. The General Assembly defines doxxing as publishing private or identifying information about a particular person with malicious intent. Act 375 does not determine what constitutes "private or identifying information."

If the doxxing of a minor results in their death or monetary loss of one million dollars or more, the offense is considered a Class B felony. If a physical injury occurs to the minor due to the doxxing or the monetary loss to the minor is between \$10,000 and a million dollars, then the offense is considered a Class C Felony. If the doxxing of a minor results in a monetary loss between \$500 and \$10,000, the offense is considered a Class D Felony. Otherwise, Act 375 considers the unlawful doxxing of a minor on a social media platform to be a Class A misdemeanor.

**ACT 589:** To Amend the Statutes Concerning Procurers; and to Regulate the Use of a Procurer by a Licensed Chiropractic Physician

Sponsored by: Representatives M. Gray (R), Perry; Senator D. Wallace (R)

This act requires a chiropractor to register a procurer with the Arkansas State Board of Chiropractic Examiners and provide the Board with updated procurer information as altered. A chiropractic physician who does not do either of these things is to be found guilty of insurance fraud and a Class D felony.

**ACT 733:** To Amend the Arkansas Time-Share Act

Sponsored by: Representative Penzo (R); Senator J. Dismang (R)

Act 733 amends the Arkansas Time-Share Act to regulate and facilitate the transfer of a time-share interest. It also creates two new felony offenses. Now, under Act 733, it is a Class D Felony for someone to perform the activities of a time-share interest transfer services provider without registering with the real Estate Commission; -also, an escrow agent receiving funds relating to a time share interest transfer must keep financial records and make those records available.

**ACT 1012:** To Be Known as the "Arkansas Sovereignty Act of 2021"; Concerning the Right to Bear Arms in the State of Arkansas; and Concerning Other Constitutional Rights

Sponsored by: Representatives Wardlaw (R), Shepherd (R), Dalby (R), Eubanks (R), Warren (R), L. Fite (R), Wing (R), Payton (R), Speaks (R), Haak (R), Bryant (R), Rye (R), Tollett (R), Christiansen (R), Brooks (R), Lundstrum (R), Coleman (R), Beaty Jr. (R), Beck (R), Bentley (R), Cloud (R), Lowery (R), McClure (R), McNair (R), Gonzales (R), M. Gray (R), Hillman (R), Pilkington (R), Richmond (R), Slape (R), Vaught (R), Breaux (R), Brown (R), Eaves (R), Evans (R), M. McElroy (R), S. Smith (R), Watson (R), Wooten (R), Boyd (R), Bragg (R), Cozart (R), Dotson (R), Hawks (R), Maddox (R), Deffenbaugh (R), Jean (R), Jett (R), Ladyman (R), M. Berry (R); Senators Irvin (R), Hickey (R), J. Dismang (R), B. Sample (R), B. Ballinger (R), L. Eads (R), J. English (R), Flippo (R), K. Hammer (R), Hester (R), B. Johnson (R), M. Pitsch (R), Rapert (R), Rice (R)

Act 1012 prohibits Arkansas law enforcement officers and elected officials from enforcing all federal acts, laws, orders, rules, and regulations of firearms that are enacted on or after January 1, 2021. Any elected official who is found to have directed a law enforcement officer to enforce these firearm regulations or aid federal agencies in enforcing such orders is to be found guilty of an unclassified misdemeanor. Also, a law enforcement officer who knowingly assists a federal law enforcement agency in enforcing these firearm regulations may be decertified as a law enforcement officer.

The constitutionality of this enactment is suspect. Several other states have passed similar federal firearms nullification statutes and those have been declared unconstitutional. Governor Hutchinson vetoed an earlier bill this session but then signed this one. The primary change is that the current act only deals with new restrictions and not ones that were put in place before this year, and it eliminated criminal penalties that would have been imposed on law enforcement officers who don't comply with the Arkansas statute.

**ACT 900:** To Amend the Cosmetology Technical Advisory Committee; and to Establish Procedures for Licensure and Regulations of Permanent Cosmetics and Semi-Permanent Cosmetics Procedures

Sponsored by: Senator K. Hammer (R), B. Davis (R); Representative M. Grey (R)

This law creates several new offenses related to the regulation of permanent and semi-permanent cosmetic procedures.

Particularly, Act 900 makes it a Class A misdemeanor to sell a body piercing/tattoo needle or ink to an unlicensed person, perform permanent/semi-permanent cosmetics on a minor, sell an instrument of permanent cosmetics to someone who is not licensed, or possess a permanent/semi-permanent cosmetic instrument. The law also makes it a Class D felony to claim to be a minor's parent in order to obtain permanent/semi-permanent cosmetics or to perform permanent/semi-permanent cosmetics in an unlicensed establishment.

Act 900 also prohibits someone with a criminal record from becoming a body artist.



# Sex Offender Registry

## IX. SEX OFFENDERS

It is a well-known fact that a criminal conviction carries with it a host of collateral consequences that persist long after someone has been convicted of a crime. Yet there are no other offenses whose collateral consequences are quite as pervasive as sex offenses. Despite research indicating that individuals who commit sex offenses are much less likely than those convicted of other offenses to be rearrested or return to prison,<sup>11</sup> Arkansas laws dictate where these people can live, work, and go. These sanctions not only contribute to homelessness, unemployment, and isolation but make it even more difficult for these individuals to adhere to probation and parole requirements and ultimately reintegrate into society.

### **More Restrictive**

**ACT 429:** Prohibiting a Person Required to Register as a Sex Offender from Entering Certain Locations Designed for Public Aquatic Activities  
Sponsored by: Representative Fortner (R)

Before Act 429, a recreational aquatic facility was only defined as a facility with a swimming pool. Now, however, a recreational aquatic facility is considered any facility with a swimming pool, wave pool, splash pad, water slide, or other area dedicated to aquatic activities for children that are open to the public.

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<sup>11</sup> <https://www.prisonpolicy.org/blog/2019/06/06/sexoffenses/>

**ACT 499:** Concerning a Sex Offender's Ability to Reside with a Minor  
Sponsored by: Representative Wooten (R)

Act 499 prohibits someone who is convicted of a sex offense and on probation from living in a residence with a minor unless the court finds that the person poses no danger to the minor in residence. Upon violation of this condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided by law.

### **Other Notable Bills**

**ACT 57:** Concerning the Registration of an Out-Of-State Sex Offender  
Sponsored by: Representative Dalby (R); Senator Hickey (R)

Act 57 necessitates that out-of-state "sex offenders" register with a local law enforcement agency upon their move to Arkansas. The law states that one does not need to have actually registered in another state to be required to do so in the state of Arkansas.

**ACT 828:** To Restrict the Circumstances Under Which a Sex Offender May Be Permitted on or Near the Premises of a Childcare Facility; and to Require Notice to Certain Persons When a Sex Offender Is on the Premises of a Childcare Facility  
Sponsored by: Representatives Wooten (R), Evans (R); Senator K. Hammer (R)

This law pertains to the spouses of people who are convicted of a sex offense — spouses that own or are an administrator of a childcare facility, in particular. Act 828 requires spouses that fall under this distinction to notify the legal guardians of the children who attend the childcare facility that they are married to someone convicted of a sex offense and they will not be on the premises of such facility while children are present.

**ACT 881:** An Act Concerning the Requirements That Need to Be Met Before a Sex Offender Can Have His or Her Obligation to Register Terminated; and for Other Purposes  
Sponsored by: Representatives McCullough (D), Gazaway (R)

Before Act 881, Arkansas law did not explicitly designate which jurisdiction an individual needed to apply to in order to end their obligation to register as a sex offender. Now, however, state law requires that someone convicted of a sex offense apply within the jurisdiction in which they were initially convicted of a sex offense.



## X. TRANSPARENCY

Historically, Arkansas has failed to gather and report information that encapsulates the nature of its criminal punishment system. Yet this data is crucial to producing policy and legitimizing reform across all areas of the carceral state. For this reason, decARcerate pushed Arkansas lawmakers this legislative session to pass House Bill 1900 —now [Act 991](#) — which requires the Administrative Office of the Courts to report bail data from courts that utilize case management software. Though there is still a way to go, decARcerate is hopeful that Act 991 will pave the way to the end of cash bail in Arkansas.

**[ACT 778:](#)** To Amend the Law Concerning the Use of Audio Media, Visual Media, and Audiovisual Media by Law Enforcement Agencies

Sponsored by: Senators Rapert (R), Irvin (R), B. Johnson (R), K. Hammer (R), D. Wallace (R), J. English (R), Gilmore (R), M. Johnson (R), Hickey (R); Representatives Beck (R), Bentley (R), Slake (R), Christiansen (R), Hollowell (R), C. Cooper (R), Tosh (R), Gazaway (R), Rye (R), Maddox (R), M. McElroy (R), Dalby (R), Evans (R), Watson (R), Wooten (R), Vaught (R)

Before Arkansas legislators passed Act 778, the state was required to keep documentation associated with the criminal investigation of a misdemeanor for a minimum of five years. Meanwhile, state law did not specify the length of time that they were required to keep investigation documentation concerning a law enforcement's use of force or types of media not otherwise described in law.

Act 778 reduces the length of time that documentation associated with the investigation of a misdemeanor be kept from five years to three years and requires that such documentation related to the investigation of law enforcement for the use of force be kept for at least three years. The law then

states that any media not associated with the criminal investigation of a felony, misdemeanor, or law enforcement complaint can be thrown out after thirty days.

Additionally, Act 778 allows a county to charge individuals who are seeking to acquire audio/visual media fees of no more than \$20 for the "costs associated with retrieving, reviewing, redacting, and copying audio media, visual media, or audiovisual media."

**ACT 991:** An Act Concerning Bail Bond Transparency; and For Other Purposes  
Sponsored by: Representatives Scott (D), Boyd (R); Senator Hester (R)

This law requires the Administrative Office of the Courts to report bail data from courts that utilize case management software.

Specifically, Act 991 requires that courts report the most serious charge a defendant is facing, amount of initial bail, length of the defendant's pre-trial detention, disposition of any cash bail, modifications to the bail amount, number of defendants with outstanding warrants for failure to appear, and the number of defendants who reoffended while on bail and have an outstanding warrant for their arrest or are subject to a pending motion to revoke bail.

The Administrative Office of the Courts is required to compile this data in a written report, which will be delivered to the Legislative Council by July 1st and December 31st each year. The first written report is due July 1, 2022.



## XI. MISCELLANEOUS

**ACT 766:** Concerning a Current or Former Judge's Ability to Lawfully Carry a Handgun Where Carrying a Handgun Would Otherwise Be Prohibited  
Sponsored by: Representative Bryant (R); Senator B. Ballinger (R)

This law allows current or retired judges to carry a concealed weapon in places where it is typically prohibited, so long as they have a license, are not intoxicated, and it is not otherwise prohibited under federal law.

**ACT 450:** Concerning the Unlawful Use of a Person's Booking Photograph on a Publish-For-Pay Website  
Sponsored by: Representative A. Collins (D); Senator C. Tucker (D)

This law requires publish-for-pay websites<sup>12</sup> to remove one's booking photograph from their website at no cost to the person who requests their photo's removal. If the publish-for-pay website does not take the booking photo down within five days of them receiving a person's written request, then the owner of the website becomes liable to civil penalties, including compensatory damages, attorney's fees, and punitive damages.

**ACT 428:** Concerning Privileged Communications Between a Certified Peer Support Member and an Emergency Responder  
Sponsored by: Representatives Tosh (R), Watson (R), Wooten (R), Slape (R), Christiansen (R); Senator D. Wallace (R)

Before the passage of Act 248, a certified peer support member was required to be a law enforcement officer, firefighter, or emergency medical technician

<sup>12</sup> Publish-for-pay websites are websites that require the payment of a fee in order to remove a booking photograph from the website.

who had completed the required training and was otherwise qualified to provide support to other emergency responders in times of extreme stress. Now, a certified peer support member is not required to be a law enforcement officer, firefighter, or emergency medical technician; one just needs to complete the required training and be otherwise qualified to provide mental and emotional support to emergency responders as a result of job-related stress.

**ACT 653:** An Act Requiring the State to Offer a Victim of Sexual Assault the Choice to Require the Person Accused of Committing a Sexual Assault on the Victim to Take an HIV Test Within Forty-Eight Hours After the Date on Which the Information or Indictment Is Presented; and for Other Purposes  
Sponsored by: Senator K. Hammer (R) & Representative L. Fite (R)

This law allows a victim of sexual assault to request that a person arrested and charged with the offense be tested for the presence of antibodies of HIV, whether or not they are in custody. These results must be provided to the victim.

Act 653 also authorizes a court to require that a person be tested for the presence of antibodies of HIV within 48 hours of the indictment being presented, so long as the court finds that there is reasonable cause to believe that the person committed the offense and did so under an element of forcible compulsion.

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