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ARKANSAS SENTENCING COMMISSION

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OFFICE OF THE
SECRETARY

EXHIBIT C

ADMINISTRATIVE RULE

TITLE: Eligibility for Transfer to Post-Release Supervision SUPERSEDES: None
NUMBER: 002 REFERENCE: A.C.A. § 16-93-1804 (4)
APPROVED: EFFECTIVE DATE: 01/01/2025

I. AUTHORITY

The Sentencing Commission is authorized to promulgate this rule by A.C.A. § 16-90-802 and mandated to promulgate this rule by A.C.A. § 16-93-1804.

II. APPLICABILITY

Eligibility for earned release credits pursuant to this rule are subject to requirements set forth in the Arkansas Code Annotated. In the event this rule conflicts with the Arkansas Code Annotated, any restrictions or limitations on eligibility for earned release credits shall be based on statute.

III. POLICY

A. Application

1. This rule is governed by A.C.A. § 16-93-1804 (4). Any person falling under these provisions are eligible for transfer to post-release supervision when the term of confinement and his or her earned release credit equals or exceeds 100% of the term of imprisonment imposed by the sentencing court.
2.
 - a. The maximum amount of earned release credits that can be accrued and granted by the Post-Prison Transfer Board is 50% or 75% of the term of imprisonment based on the seriousness determination set out in Paragraphs B and C of this rule.
 - b. The maximum amount of earned release credits which may be accrued and granted by the Post-Prison Transfer Board for offenses omitted in this rule is 50% of the term of imprisonment.

B. Felonies for which earned release credits may not exceed 50% of imposed term of confinement:

1. Physician-assisted suicide, § 5-10-106;
2. Robbery, § 5-12-102;
3. Abuse of an athletic contest official, § 5-13-209, if a Class B felony;
4. Introduction of a controlled substance in the body of another person, § 5-13-210, if a Class Y felony;
5. Aggravated assault upon a law enforcement officer or an employee of a correctional facility, § 5-13-211, if a Class Y felony;
6. Knowingly exposing another person to fentanyl in the first and second degree, § 5-13-214;
7. Sexual assault in the second degree, § 5-14-125;

8. Unlawful solicitation for the relinquishment of parental rights, § 5-26-204, if a Class A felony;
 9. Abuse of an endangered or impaired person, § 5-28-103, if a Class B felony;
 10. Arson, § 5-38-301, if a Class A felony;
 11. Residential burglary, § 5-39-201 (a);
 12. Using prohibited articles, § 5-54-119 (d);
 13. Possession of fentanyl with the purpose to deliver, § 5-64-421 (b);
 14. Delivery of methamphetamine, heroin, or cocaine, § 5-64-422, if a Class B or Y felony;
 15. Manufacture of methamphetamine, heroin, or cocaine, § 5-64-423, if a Class B, A, or Y felony;
 16. Delivery of a Schedule VI controlled substance, § 5-64-438, if a Class A felony;
 17. Manufacture of a Schedule VI controlled substance, § 5-64-439, if a Class A felony;
 18. Possession or use for offensive or aggressive purposes unlawful, § 5-73-204;
 19. Perpetrating or attempting crime, § 5-73-211;
 20. Engaging in a continuing criminal gang, organization, or enterprise in the first degree, § 5-74-104 (a), if a Class Y or A felony;
 21. Engaging in a continuing criminal gang, organization, or enterprise in the second degree, § 5-74-104 (b), if a Class Y felony;
 22. Simultaneous possession of drugs and firearms, § 5-74-106;
 23. Unlawful discharge of a firearm from a vehicle in the second degree, § 5-74-107 (b);
 24. Soliciting a minor to join a gang, § 5-74-203, if a Class B felony;
- C. Felonies for which earned release credits may not exceed 75% of imposed term of confinement:
1. Violation of the Arkansas Public Grain Warehouse Law, § 2-17-204;
 2. Violation of the Arkansas Grain Dealers Act, § 2-24-108;
 3. Knowingly furnishing or selling to minor, § 3-3-202;
 4. Social hosts – Criminal liability, § 3-3-219;
 5. Manufacture, possession, and transportation, § 3-3-402;
 6. Sales or furnishing place for sale in dry territory prohibited – Penalty, § 3-8-209;
 7. Sales, barter, or possession for sale or barter in dry area – Penalties, § 3-8-312;
 8. Unlawful acts relating to secured interests on certain farm products, § 4-56-102;
 9. Issuance of bill for goods not received, § 4-59-301;
 10. Remission to acquirer of record of sale not made by remitter, § 4-59-502;
 11. Solicitation of merchant to remit record of sale not made by merchant, § 4-59-503;
 12. Misleading and fraudulent schemes – Penalty – Prosecutions, § 4-72-207;
 13. Counterfeits – Criminal penalties, § 4-88-1205;
 14. Violation of odometer regulations, § 4-90-203;
 15. Violation of the Arkansas Mail and Telephone Consumer Product Promotion Fair Practices Act, § 4-95-103;
 16. Soliciting prospective purchasers on behalf of unregistered telephonic seller prohibited – Violation, § 4-99-110;
 17. Violation of motor vehicle transfer law, § 4-100-102;
 18. Method of execution, § 5-4-617;
 19. Negligent homicide, § 5-10-105, if a Class D felony;
 20. False Imprisonment in the first degree, § 5-11-103;
 21. Vehicular piracy, § 5-11-105;
 22. Permanent detention or restraint, § 5-11-106;
 23. Battery in the second degree, § 5-13-202;
 24. Aggravated assault, § 5-13-204;

25. Abuse of an athletic contest official, § 5-13-209, if a Class C felony;
26. Introduction of a controlled substance into the body of another person, § 5-13-210, if a Class B or C felony;
27. Aggravated assault against a certified law enforcement officer or employee of a correctional facility, § 5-13-211, if a Class D felony;
28. Fertility treatment abuse, § 5-13-212;
29. Aggravated assault against a first responder; § 5-13-213;
30. Terroristic threatening, § 5-13-301;
31. Threatening to commit an act of mass violence on school property, § 5-13-302;
32. Indecent exposure, § 5-14-112;
33. Sexual assault in the third degree, § 5-14-126;
34. Sexual assault in the fourth degree, § 5-14-127;
35. Registered offender living near school, public park, youth center, daycare, or church or other place of worship prohibited, § 5-14-128;
36. Registered offender working with children prohibited, § 5-14-129;
37. Registered offender – Incorrect permanent physical address on identification cards or driver’s license prohibited, § 5-14-130;
38. Registered offender living near victim or having contact with victim prohibited, § 5-14-131;
39. Registered offender prohibited from entering upon school campus – Exception, § 5-14-132;
40. Registered offender prohibited from entering a water park owned or operated by a local government, § 5-14-133;
41. Registered offender prohibited from entering a swimming area or children’s playground contained within an Arkansas State Park, § 5-14-134;
42. Registered offender prohibited from participating in certain Halloween-related activities, § 5-14-135;
43. Registered offender prohibited from recording person under 14 years of age – Unlawful use of recording online, § 5-14-137;
44. Registered offender prohibited from purchasing, owning, possessing, using, or operating unmanned aircraft, § 5-14-138;
45. Crime of video voyeurism, § 5-16-101, if a Class D felony;
46. Voyeurism, § 5-16-102, if a Class D felony;
47. Communicating a death threat concerning a school employee or student, § 5-17-101;
48. Incest, § 5-26-202;
49. Concealing birth, § 5-26-203;
50. Unlawful solicitation for the relinquishment of parental rights, § 5-26-204, if a Class C or D felony;
51. Domestic battering in the second degree, § 5-26-304;
52. Domestic battering in the third degree, § 5-26-305;
53. Aggravated assault on a family or household member, § 5-26-306, unless under § 5-26-306 (a)(3);
54. Nonsupport, § 5-26-401;
55. Interference with visitation, § 5-26-501;
56. Interference with court-ordered custody, § 5-26-502;
57. Interference with custody, § 5-26-503;
58. Endangering the welfare of an incompetent person in the first degree, § 5-27-201;
59. Endangering the welfare of a minor in the first degree, § 5-27-205;
60. Re-homing of an adopted minor, § 5-27-211;
61. Permitting child abuse, § 5-27-221, if a Class D felony;

62. Soliciting money or property to incompetents, § 5-27-229;
63. Manufacturing or altering personal identification document unlawful, § 5-27-502;
64. Distributing, possessing, or viewing of any matter depicting sexually explicit conduct involving a child, § 5-27-602;
65. Possession or use of child sexual abuse material, § 5-27-603;
66. Unlawful doxing of a minor on social media platform, § 5-27-610;
67. Criminal penalties for abuse of an endangered or impaired person, § 5-28-103, if a Class C or D felony;
68. Making a false notification by the Adult and Long-Term Care Facility Resident Maltreatment Act, § 5-28-110 (b);
69. Abuse of a vulnerable person, § 5-29-203;
70. Neglect of a vulnerable person, § 5-29-204;
71. Exploitation of a vulnerable person, § 5-29-205;
72. Theft of property, § 5-36-103;
73. Theft of services, § 5-36-104;
74. Theft of property lost, mislaid, or delivered by mistake, § 5-36-105;
75. Theft by receiving, § 5-36-106;
76. Operating a chop shop – Dealing in stolen or forged motor vehicle parts, § 5-36-109;
77. Theft of leased, rented, or entrusted personal property – False report of wealth or credit, § 5-36-115;
78. Theft of scrap metal, § 5-36-123;
79. Theft by receiving of scrap metal, § 5-36-124;
80. Unlawful transfer of stolen property to a pawn shop or pawnbroker, § 5-36-125;
81. Theft of a catalytic converter – Unauthorized possession of a catalytic converter, § 5-36-126;
82. Theft of public benefits, § 5-36-202;
83. Theft of wireless service, § 5-36-303;
84. Facilitating theft of wireless service by manufacture, distribution, or possession of devices for theft of wireless services, § 5-36-304;
85. Unlawful use of a theft detection shielding device, § 5-36-401;
86. Unlawful possession of a theft detection shielding device, § 5-36-402;
87. Unlawful possession of a theft detection device remover, § 5-36-403;
88. Unlawful removal of a theft detection device, § 5-36-404;
89. Forgery, § 5-37-201;
90. Defrauding a secured creditor, § 5-37-203;
91. Fraud in insolvency, § 5-37-204;
92. Fraudulent use of a credit card or debit card, § 5-37-207;
93. Criminal impersonation, § 5-37-208;
94. Criminal possession of a forgery device, § 5-37-209;
95. Obtaining a signature by deception, § 5-37-210;
96. Defrauding a judgment creditor, § 5-37-211;
97. Unlawfully using a slug, § 5-37-212;
98. Criminal simulation, § 5-37-213;
99. Fraudulently filing a Uniform Commercial Code financing statement, § 5-37-215;
100. Defrauding a prospective adoptive parent, § 5-27-216;
101. Healthcare Fraud, § 5-37-217;
102. Unlawful possession of a skimmer, § 5-37-219;
103. Fertility treatment fraud, § 5-37-220;

104. Filing instruments affecting title or interest in real property, § 5-37-226;
105. Financial identity fraud – Nonfinancial identity fraud – Restitution – Venue, § 5-37-227;
106. Unlawful acts, § 5-37-302;
107. Theft of communication services – Unlawful communication and access devices, § 5-37-402;
108. Animals – Marking, branding, or altering brands, § 5-37-502;
109. Insurance fraud by use of a procurer, § 5-37-505;
110. Prohibited activity by a procurer or provider, § 5-37-506;
111. Software and other devices and mechanisms used to falsify electronic records, § 5-37-507;
112. Unauthorized copying or sale of recordings, § 5-37-510;
113. Farm implements – Removal or alteration of serial number, § 5-37-521;
114. Fraud in the acquisition of authorization to provide motor vehicle transportation of property, § 5-37-524;
115. Defrauding a materialman, § 5-37-525;
116. Threatening to cause a catastrophe, § 5-38-202 (b);
117. Criminal mischief in the first degree, § 5-38-203;
118. Criminal mischief in the second degree, § 5-38-204;
119. Impairing the operation of a vital public facility, § 5-38-205;
120. Damaging wires and other fixtures of telephone, cable, and electric power companies, § 5-38-206;
121. Destruction or removal of a cemetery or grave marker, § 5-38-207;
122. Arson, § 5-38-301, if a Class B, C, or D felony;
123. Reckless burning, § 5-38-302;
124. Unlawful burning – Miscellaneous felonies, § 5-38-311;
125. Commercial burglary, § 5-39-201 (b);
126. Breaking or entering, § 5-38-202;
127. Criminal trespass, § 5-39-203;
128. Cemeteries – Mining and other unlawful entries, § 5-39-211;
129. Criminal trespass on premises located in unincorporated area, § 5-39-305;
130. Computer fraud, § 5-41-103;
131. Computer trespass, § 5-41-104;
132. Unlawful acts involving a computer, § 5-41-202;
133. Unlawful interference with access to computers – Unlawful use or access to computers, § 5-41-203;
134. Unlawful use of encryption, § 5-41-204;
135. Unlawful act involving electronic mail, § 5-41-205;
136. Computer password disclosure, § 5-41-206;
137. Criminal use of property or laundering criminal proceeds, § 5-42-204;
138. Usurping office, § 5-51-203;
139. Usurping, overturning, or seizing government, § 5-51-204;
140. Intention injury to or interference with government property, § 5-51-303;
141. Intentionally defective workmanship, § 5-51-304;
142. Abuse of public trust, § 5-52-101;
143. Abuse of office, § 5-52-107;
144. Perjury generally, § 5-53-102;
145. Witness bribery, § 5-53-108;
146. Intimidating a witness § 5-53-109;
147. Tampering, § 5-53-110;

148. Tampering with physical evidence, § 5-53-111;
149. Retaliation against a witness, informant, or juror, § 5-53-112;
150. Juror bribery, § 5-53-113;
151. Intimidating a juror, a witness, or an informant, § 5-53-114;
152. Jury tampering, § 5-53-115;
153. Frivolous, groundless, or malicious prosecutions, § 5-53-131;
154. Violation of an order of protection, § 5-53-134;
155. Threatening a judicial official or juror – Penalty, § 5-53-202;
156. Interference with a law enforcement or code enforcement officer, § 5-54-104;
157. Hindering apprehension or prosecution, § 5-54-105;
158. Aiding consummation of offense, § 5-54-106;
159. Compounding, § 5-54-107;
160. Second degree escape, § 5-54-111;
161. Third degree escape, § 5-54-112;
162. Permitting escape in the first degree, § 5-54-113;
163. Aiding an unauthorized departure, § 5-54-116;
164. Assisting in or furnishing an implement for escape, § 5-54-117;
165. Furnishing implement for unauthorized departure, § 5-54-118;
166. Furnishing a prohibited article, § 5-54-119 (b);
167. Possessing a prohibited article, § 5-54-119 (c);
168. Delivering a prohibited article, § 5-54-119 (e);
169. Failure to appear, § 5-54-120;
170. Tampering with a public record, § 5-54-121;
171. Filing false report with law enforcement agency, § 5-54-122;
172. Fleeing, § 5-54-125, if a Class C or D felony;
173. Killing or injuring animals used by law enforcement or search and rescue dogs, § 5-54-126;
174. Absconding, § 5-54-131;
175. Disarming an officer, § 5-54-134;
176. Unlawful acts – Classification, § 5-55-103;
177. Records, § 5-55-104;
178. Traffic in illegal food coupons or vouchers, § 5-55-201;
179. Illegal presentation of food coupons or vouchers for payment, § 5-55-203;
180. Penalty – Notice – Prosecution, § 5-55-301;
181. Lottery fraud, § 5-55-501;
182. Petition fraud, § 5-55-601;
183. Criminal impersonation in an election, § 5-55-602;
184. Abuse of a corpse, § 5-60-101;
185. Obstruction or interference with emergency medical personnel or first responder, § 5-60-123;
186. Abortion only by licensed physician, § 5-61-101;
187. Unlawful abortion, § 5-61-102;
188. Violation of Arkansas Human Life Protection Act, § 5-61-304;
189. Violation of Arkansas Unborn Child Protection Act, § 5-61-404;
190. Offense of cruelty to animals, § 5-62-103;
191. Offense of aggravated cruelty to a dog, cat, or equine – Definition, § 5-62-104;
192. Unlawful animal fighting, § 5-62-120;
193. Unlawful bear exploitation, § 5-62-124;
194. Automated telephone solicitation, § 5-63-204;

195. Misleading caller identification information – Exemptions – Penalties, § 5-64-205;
196. Controlled substances – Offense relating to records, maintaining premises, etc., § 5-64-402;
197. Controlled substances – Fraudulent practices, § 5-64-403;
198. Use of a communication device, § 5-64-404;
199. Drug precursors, § 5-64-415;
200. Possession of a controlled substance, § 5-64-419;
201. Possession of methamphetamine, heroin, or cocaine with the purpose to deliver, § 5-64-420;
202. Possession of fentanyl, § 5-64-421 (a);
203. Delivery of methamphetamine, heroin, or cocaine, § 5-64-422, if a Class C felony;
204. Manufacture of methamphetamine, heroin, or cocaine, § 5-64-423, if a Class C felony;
205. Possession of a Schedule I or Schedule II controlled substance that is not methamphetamine, fentanyl, heroin, or cocaine with the purpose to deliver, § 5-64-424;
206. Delivery of a Schedule I or Schedule II controlled substance that is not methamphetamine, fentanyl, heroin, or cocaine; § 5-64-426;
207. Manufacture of a Schedule I or Schedule II controlled substance that is not methamphetamine, fentanyl, heroin, or cocaine; § 5-64-427;
208. Possession of a Schedule III controlled substance with the purpose to deliver, § 5-64-428;
209. Delivery of a Schedule III controlled substance, § 5-64-430;
210. Manufacture of a Schedule III controlled substance, § 5-64-431;
211. Possession of a Schedule IV or Schedule V controlled substance with the purpose to deliver, § 5-64-432;
212. Delivery of a Schedule IV or Schedule V controlled substance, § 5-64-434;
213. Manufacture of a Schedule IV or Schedule V controlled substance, § 5-64-435;
214. Possession of a Schedule VI controlled substance with the purpose to deliver, § 5-64-436;
215. Delivery of a Schedule VI controlled substance, § 5-64-438, if a Class D, C, or B felony;
216. Manufacture of a Schedule VI controlled substance, § 5-64-439, if a Class D, C, or B felony;
217. Possession of a counterfeit substance, § 5-64-441;
218. Possession with the purpose to deliver, delivery, or manufacture of a counterfeit substance, § 5-64-442;
219. Possession of drug paraphernalia, § 5-64-443;
220. Drug paraphernalia – Delivery to a minor, § 5-64-444;
221. Advertisement of a counterfeit substance or drug paraphernalia, § 5-64-445;
222. Illegal drug paraphernalia business, § 5-64-802;
223. Possession – Penalty, § 5-64-1101;
224. Possession with purpose to manufacture – Unlawful distribution, § 5-64-1102;
225. Sales limits, § 5-64-1103;
226. Possession of anhydrous ammonia in unlawful container, § 5-64-1301;
227. Driving or boating while intoxicated, § 5-65-111, if an unclassified felony;
228. Keeping a gambling house, § 5-66-103;
229. Sports or games – Bribery of participants; § 5-66-115;
230. Horsereading – Agency service wagering, § 5-66-117;
231. Lottery, etc. – Tickets, § 5-66-118;
232. Lottery – Promotion through sales, § 5-66-119;
233. Obscene films, § 5-68-203;
234. Promoting obscene materials, § 5-68-303;
235. Promoting obscene performance, § 5-68-304;
236. Obscene performance at a live public show, § 5-68-305;

237. Public display of hard-core sexual conduct, § 5-68-307;
238. Possession, sale, or distribution, § 5-68-405;
239. Pipelines and pipeline facilities, § 5-69-103;
240. Promoting prostitution in the first degree, § 5-70-104, if a Class D felony;
241. Sexual solicitation of a minor, § 5-70-107;
242. Aggravated riot, § 5-71-202;
243. Inciting riot, § 5-71-203;
244. Communicating a false alarm, § 5-71-210;
245. Threatening a fire or bombing, § 5-71-211;
246. Defacing or damaging a public building or an object of public respect, § 5-71-215;
247. Stalking, § 5-71-229;
248. Promoting civil disorder in the first degree, § 5-71-302;
249. Injuring levees, § 5-72-109;
250. Possession of firearms by certain person, § 5-73-103, if a Class D felony;
251. Criminal use of prohibited weapons, § 5-73-104, if a Class D felony;
252. Defacing a firearm, § 5-73-106;
253. Possession of a defaced firearm, § 5-73-107;
254. Furnishing a deadly weapon to a minor, § 5-73-109;
255. Unlawful procurement of a firearm, § 5-73-111;
256. Handguns – Possession by minor or possession on school property, § 5-73-119;
257. Booby traps, § 5-73-126;
258. Furnishing a handgun or prohibited weapon to a felon, § 5-73-129;
259. Sale, rental, or transfer of firearm to a person prohibited from possessing firearms, § 5-73-132;
260. Possession of a taser stun gun, § 5-73-133;
261. Engaging in a continuing criminal gang, organization, or enterprise in the first degree, § 5-74-104 (a), if a Class B felony;
262. Engaging in a continuing criminal gang, organization, or enterprise in the second degree, § 5-74-104 (b), if a Class A, B or C felony;
263. Unauthorized use of another person's property to facilitate certain crimes, § 5-74-105;
264. Soliciting or recruiting a minor to join or to remain a member of a criminal gang, organization, or enterprise, § 5-74-203, if a Class C felony;
265. Operation of aircraft while intoxicated, § 5-75-102;
266. Unlawful possession, purchase, sale, or transfer of a blue light or blue lens cap, § 5-77-201;
267. Law enforcement insignia sales, § 5-77-202;
268. Criminal possession of body armor, § 5-79-101;
269. Powers and duties – Definition, § 6-13-701;
270. Reports by mandated reporters – Failure to notify by mandated reporter – Making a false report, § 6-18-110;
271. Violation of ethical guidelines, § 6-24-115;
272. Miscellaneous election felonies, § 7-1-104;
273. Destruction of a ballot or ballot materials – Prohibited – Definitions, § 7-1-112;
274. Political practices pledge – Penalty for falsification, § 7-6-102;
275. Contributions – Limitations – Acceptance or solicitation – Use as personal income – Disposition, § 7-6-203;
276. Form of verification – Penalty for false statement, § 7-9-109;
277. Violation of Arkansas Hazardous Waste Management Act of 1979, § 8-7-204;

278. Persons required to consent to adoption – Consideration for relinquishing minor for adoption, § 9-9-206;
279. Violation of child labor law, § 11-6-103;
280. Penalties for misrepresentation, § 11-9-106;
281. Penalties for discrimination for filing claim, § 11-9-107;
282. Special rules regarding transfers of experience and assignment of rates – Definitions, § 11-10-723;
283. Confidentiality of certain law enforcement records – Definitions, § 12-6-701;
284. Release or disclosure to unauthorized person – Penalty, § 12-12-212;
285. Failure to comply with registration and reporting requirements – Refusal to cooperate with assessment process, § 12-12-904;
286. Duty to register or verify registration generally – Review of requirements with offenders, § 12-12-906;
287. Electronic monitoring of sex offenders, § 12-12-923;
288. Violation of criminal history information and reporting standards, § 12-12-1002;
289. Procedures of withdrawal, collection, and transmission of DNA samples, § 12-12-1110;
290. Prohibition against disclosure, § 12-12-1115;
291. Prohibition against disclosure for pecuniary gain, § 12-12-1116;
292. False reporting of adult abuse, § 12-12-1720 (d);
293. Making a false report under the Child Maltreatment Act, § 12-18-203;
294. Selling or trading position, working condition, or promotion, § 12-29-110;
295. Unauthorized removal or willful mutilation of library materials, § 13-2-803;
296. State archeological landmarks – Penalty for disturbing, § 13-6-306;
297. Digging up or removing artifact without permission – Penalty, § 13-6-307;
298. Vandalism of archeological sites and artifacts – Penalty, § 13-6-308;
299. Trade or collection of remains, § 13-6-406;
300. Display of remains, § 13-6-407;
301. Desecration of burial grounds and burial furniture, § 13-6-408;
302. Timber theft, § 15-32-603;
303. Unauthorized practice of law, § 16-22-501;
304. Violation of bail bond agent law, § 16-84-114;
305. Certificate of indigency, § 16-87-213;
306. Probation – First time offenders – Penalties, § 16-93-302;
307. Escape – Penalty, § 16-95-105;
308. Violation of the Appraisal Management Company Registration Act, § 17-14-411;
309. Violation of the Uniform Athlete Agents Act, § 17-16-115;
310. Violation of barber law, § 17-20-308;
311. Violation of buyers of precious metals law, § 17-23-103;
312. Unlawful to perform body art on person under 18 years of age – Documentation and consent, § 17-26-602;
313. Department of Health to license, regulate, and inspect for health hazards, § 17-26-602;
314. Violation of counseling law, § 17-27-104;
315. Violation of embalmers and funeral directors law, § 17-29-401;
316. Violation of engineers law, § 17-30-102;
317. Violation of private investigator and private security agency law, § 17-40-104;
318. Violation of real estate license law, § 17-42-105;
319. Violation of scrap metal dealer law, § 17-44-102;
320. Buyer of used catalytic converter, § 17-44-109;

321. Dental license required – Penalty, § 17-82-301;
322. Land ownership by prohibited foreign-party-controlled business prohibited- Definitions, § 18-11-110
323. Interest in agricultural land owned by prohibited foreign parties- Exception – Penalty, § 18-11-804;
324. Violation of unused property law, § 18-29-204;
325. Penalty for failure to discharge lien after payment, § 18-44-132;
326. Penalty for intentional violation of Arkansas procurement law, § 19-11-270;
327. Violation of Arkansas Physician Order for Life-Sustaining Treatment Act, § 20-6-310;
328. Violation of Prescription Drug Monitoring Program Act, § 20-7-611;
329. Qualifications to perform an abortion, § 20-16-606;
330. Violation of human cloning law, § 20-16-1002;
331. Violation of the Pain-Capable Unborn Child Protection Act, § 20-16-1405;
332. Violation of the Cherish Act, § 20-16-2006;
333. Violation of the Down Syndrome Discrimination by Abortion Prohibition Act, § 20-16-2104;
334. Violation of the Cemetery Act for Perpetually Maintained Cemeteries, § 20-17-1018;
335. Inspectors – Failure to perform duties, § 20-23-403;
336. Violation of disposal of commercial medical waste law, § 20-32-103;
337. Violation of Arkansas Meat and Meat Products Inspection Act, § 20-60-205;
338. Violation of the Uniform Narcotic Drug Act, § 20-64-220;
339. Violation of the Arkansas Drug Abuse Control Act, § 20-64-304;
340. Violation of law regulating state employment of constitutional officers and their spouses, § 21-1-405;
341. Wrongful possession, concealment, or destruction of software or hardware – Criminal offense, § 21-14-312;
342. Violation of the Arkansas State Capitol and Historical Monument Protection Act, § 22-3-2106;
343. Misleading conduct or use of words “credit union,” § 23-35-801;
344. Violation of prohibition of advanced fee loan brokerage, § 23-39-405;
345. Violation of Fair Mortgage Lending Act, § 23-39-516;
346. Violation of Arkansas prepaid funeral benefits law, § 23-40-106;
347. Violation of Arkansas Securities Act, § 23-42-104;
348. Embezzlement, misuse of funds, etc. by officer, director, etc., § 23-50-105;
349. Violation of Uniform Money Services Act, § 27-55-806;
350. Penalty for false or misleading statements, § 23-60-109;
351. Unauthorized insurance transactions prohibited, § 20-65-101;
352. Violation of fraudulent insurance acts prevention law, § 23-66-512;
353. Maintenance of home office and records – Definitions, § 23-69-134;
354. Violation of Amusement Ride and Amusement Attraction Safety Insurance Act, § 23-89-504;
355. Violation of used motor vehicle buyers protection law, § 23-112-603;
356. False statement on license application, § 23-115-903;
357. Examination of office, § 25-16-614;
358. Attempt to evade or defeat tax, § 26-18-201;
359. Failure to pay or file return, § 26-18-202;
360. False or fraudulent reports, § 26-18-203;
361. False answers to questions or affidavits, § 26-18-204;

362. Failure to obey summons, § 26-18-205;
363. Distribution of funds – Definition, § 26-37-205;
364. Counterfeiting of stamps unlawful – Penalty, § 26-57-240;
365. Reuse of containers unlawful – Penalty, § 26-57-241;
366. Unstamped products or products with unpaid taxes – Criminal offense – Deceptive trade practice, § 26-57-245;
367. Cigarette inputs – Cigarette rolling machines, § 26-57-263;
368. False evidence of title or registration, § 27-14-307;
369. Vehicles or engines without manufacturer’s numbers, § 27-14-2210;
370. Altering or changing engine or other numbers, § 27-14-2211;
371. Mutilation of serial numbers, § 27-14-2212;
372. Violation of Arkansas Online Insurance Verification System Act, § 27-22-210;
373. Racing or observing a drag race as a spectator on a public highway – Definitions, § 27-50-309;
374. Penalty for interference with devices in construction areas, § 27-52-102;
375. Requirements in accidents involving death or personal injuries – Definitions, § 27-53-101;
376. Accidents involving damage only to vehicle or personal property of another person – Removal of vehicle, § 27-53-102;
377. Duty to give information, remain at the scene of an accident, and render aid, § 27-53-103;
378. Contracts between commission and employees, § 27-65-132;
379. Corruption in office, § 27-65-133;
380. Boating equipment without boat identification number, § 27-101-703;
381. Altering or changing boating identification numbers, § 27-101-704;
382. Mutilation of boating identification numbers, § 27-101-705;
383. Operation of a prohibited aircraft, § 27-116-502.

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT Department of Corrections

BOARD/COMMISSION Sentencing Commission

BOARD/COMMISSION DIRECTOR Tawnie Rowell

CONTACT PERSON William Bowman

ADDRESS 1302 Pike Avenue Suite E, North Little Rock AR

PHONE NO. (501) 539-4565 EMAIL william.bowman@arkansas.gov

NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING
Tawnie Rowell

PRESENTER EMAIL(S) tawnie.rowell@arkansas.gov

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?
Eligibility for Transfer to Post-Release Supervision
2. What is the subject of the proposed rule? eligibility for transfer to post-release supervision
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

16-93-1804 (4)

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

We have requested an exemption because the Sentencing Commission only has one existing rule, and it is still statutorily required.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

16-90-802(d) provides that the Commission shall set the percentage of time within parameters set by law to be served for offenses at each seriousness level before any type of transfer or release.

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

Act 659 of 2023

11. What is the reason for this proposed rule? Why is it necessary?

The rule is necessary to set release eligibility thresholds for offenses committed on or after 1/1/25 pursuant to the Protect Arkansas Act.

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

<https://doc.arkansas.gov/rule-filings/>

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: TBD- Will be held if requested

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. 05/20/2024

15. What is the proposed effective date for this rule? January 1, 2025

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

None anticipated

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT Department of CorrectionsBOARD/COMMISSION Sentencing CommissionPERSON COMPLETING THIS STATEMENT Tawnie RowellTELEPHONE NO. (501) 682-5001 EMAIL tawnie.rowell@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE Eligibility for Transfer to Post-Release Supervision

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

By requiring those convicted of more serious offenses to serve a larger percentage of their sentence.

(b) the reason for adoption of the more costly rule;

To promote public safety by ensuring that more inmates with more serious offenses are required to serve a larger percentage of sentence. +

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

Yes- the reason for adoption was based on the interest of public safety.

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

Yes- 16-93-1804 provides that the Sentencing Commission is responsible for making this determination for offenses not specifically set out in statute. +

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation? n/a

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ 0.00

Next Fiscal Year

\$ 0.00

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 498.00

Next Fiscal Year

\$ 28,393.00

The additional length of stay will create additional cost of care for inmates in state facilities. Currently release eligibility begins at 1/6 of the sentence imposed by the court for most offenses. The increase to 25% and 50% will result in longer stays and an increase in cost of care. Please note that most of the projected fiscal impact for this rule was already covered by the impact assessment prepared for Act 659. There is an estimated increase of \$28,891 to accommodate the increase of daily cost of care for state inmates.

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.