

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

1 State of Arkansas *As Engrossed: S3/6/25 H4/9/25*

2 95th General Assembly

# A Bill

3 Regular Session, 2025

SENATE BILL 313

4

5 By: Senators Irvin, B. Davis, J. English

6 By: Representatives K. Moore, Vaught, Barker, Bentley, A. Brown, K. Brown, R. Burkes, Cavanaugh,

7 Crawford, Dalby, Duke, Henley, Lundstrum, J. Mayberry, McAlindon

8

9

## For An Act To Be Entitled

10 AN ACT CONCERNING FORENSIC MENTAL HEALTH EVALUATIONS  
11 AND TREATMENT; TO PROMOTE AND IMPROVE EFFICIENCIES  
12 AND QUALITY IN THE DEPARTMENT OF HUMAN SERVICES; AND  
13 FOR OTHER PURPOSES.

14

15

16

## Subtitle

17 CONCERNING FORENSIC MENTAL HEALTH  
18 EVALUATIONS AND TREATMENT; AND TO  
19 PROMOTE AND IMPROVE EFFICIENCIES AND  
20 QUALITY IN THE DEPARTMENT OF HUMAN  
21 SERVICES.

22

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

24

25 SECTION 1. Arkansas Code § 5-2-301(3), concerning the definition of  
26 "designated receiving facility or program" regarding mental disease or  
27 defect, is amended to read as follows:

28 (3) "Designated receiving facility or program" means an  
29 inpatient or outpatient treatment facility or program that is designated  
30 within each geographic area of the state by the Director of the Division of  
31 Aging, Adult, and Behavioral Health Services of the Department of Human  
32 Services to accept the responsibility for the care, custody, and treatment of  
33 a person involuntarily ~~admitted~~ committed to the state mental health system  
34 for mental health treatment;

35

36 SECTION 2. Arkansas Code § 5-2-301(5), concerning the definition of



1 "frivolous" regarding mental disease or defect, is amended to read as  
2 follows:

3 (5) "Frivolous" means clearly lacking ~~any~~ a reasonable basis in  
4 fact or law;

5  
6 SECTION 3. Arkansas Code § 5-2-301, concerning the definitions used  
7 regarding mental disease or defect, is amended to add an additional  
8 subdivision to read as follows:

9 (14)(A) "Jail-based restoration services" means clinical and  
10 educational services provided in a county jail to a defendant to assist in  
11 the restoration of the defendant's fitness to proceed.

12 (B) "Jail-based restoration services" includes without  
13 limitation mental health treatment, medical treatment, and substance abuse  
14 treatment.

15  
16 SECTION 4. Arkansas Code § 5-2-304 is amended to read as follows:  
17 5-2-304. Notice requirement.

18 (a) When a defendant intends to raise lack of criminal responsibility  
19 as ~~a~~ an affirmative defense in a prosecution or put in issue his or her  
20 fitness to proceed, the defendant shall notify the prosecutor and the court  
21 at the earliest practicable time.

22 (b)~~(1)~~ Failure to notify the prosecutor within a reasonable time  
23 before the trial date entitles the prosecutor to a continuance that for  
24 limitation purposes is deemed an excluded period granted on application of  
25 the defendant.

26 ~~(2) Alternatively, in lieu of suspending any further proceedings~~  
27 ~~under § 5-2-328, the court may order the immediate examination of the~~  
28 ~~defendant at a designated receiving facility or program by an expert.~~

29 (c) When the court or a party in a criminal proceeding has reason to  
30 believe that a defendant is not fit to proceed, the court or a party shall  
31 raise the question of the defendant's fitness in the following manner:

32 (1) On its own motion, the court shall suspend the proceedings  
33 and order an examination of the defendant pursuant to this subchapter; or

34 (2)(A) By written motion of the prosecutor or defense counsel  
35 stating that the request is made in good faith and not for the purpose of  
36 delay, and containing the facts and observations in support of the request.

1 (B) If the motion is denied, defense counsel may request  
2 an ex parte or in camera filing and hearing if an ex parte or in camera  
3 filing and hearing are necessary because the motion is based in whole or in  
4 part on information protected by the attorney-client privilege.

5 (d) For good cause shown, a request for an evaluation may be made by  
6 oral motion in court if the request:

7 (1) Is made in good faith and not for the purpose of delay; and

8 (2) Contains sufficient facts and observations in support of the  
9 request for the court to consider the request.

10 (e) When the defendant intends to raise the lack of criminal responsibility  
11 as an affirmative defense, the defendant shall file a notice of intent and  
12 the circuit court shall suspend all further proceedings.

13 (f) Upon filing of an order for an examination of criminal  
14 responsibility or fitness to proceed with a circuit clerk:

15 (1) The moving party shall immediately submit a copy of the  
16 order to the Department of Human Services;

17 (2) The prosecutor shall submit a copy of the defendant's case  
18 file to the department;

19 (3) The attorney for the defendant shall submit to the  
20 department either:

21 (A) A release of protected health information, signed by  
22 the defendant, with a list of all known previous healthcare providers; or

23 (B) If the defendant cannot provide consent, a court order  
24 for the production of records; and

25 (4) The attorney for the defendant shall make all reasonable  
26 efforts to provide any medical, psychiatric, or treatment records that may be  
27 relevant to the examination to the department.

28  
29 SECTION 5. Arkansas Code § 5-2-310 is amended to read as follows:

30 5-2-310. Lack of fitness to proceed – Procedures subsequent to finding.

31 (a)(1)(A) If the court determines that a defendant lacks fitness to  
32 proceed, the proceeding against him or her shall be suspended and the court  
33 may commit the defendant to the custody of the Department of Human Services  
34 for ~~detention, care, and treatment until~~ restoration of fitness to proceed.

35 (B) If the court determines that a defendant lacks fitness  
36 to proceed because of a mental disease or defect that precludes the

1 possibility of restoration, the court shall direct the defendant to available  
2 services and supports as recommended by the department.

3 (C) However, if If the court is satisfied that the  
4 defendant may be released without danger to himself or herself or to the  
5 person or property of another, the court may order the defendant's release  
6 and the release shall continue at the discretion of the court on conditions  
7 the court determines necessary.

8 (D) If the court finds that the defendant lacks fitness to  
9 proceed or that the defendant is fit to proceed but that the defendant's  
10 fitness to proceed depends on the continuation of appropriate treatment for a  
11 mental disease or defect, the court shall consider issues relating to  
12 treatment necessary to restore or maintain the defendant's fitness to  
13 proceed.

14 (E) If the court finds that the defendant may be treated  
15 in the community, the court may make receipt of reasonable medical treatment  
16 a condition of his or her release.

17 (F) The court may order the administration of medication  
18 to maintain the fitness to proceed of an incarcerated defendant if the  
19 defendant is a danger to himself or herself or others and refuses to take the  
20 medication required to maintain his or her fitness to proceed.

21 (G) The court may order the administration of medication  
22 to maintain the fitness to proceed of an incarcerated defendant if the  
23 defendant is not a danger to himself or herself or others and refuses to take  
24 the medication required to maintain his or her fitness to proceed if the  
25 court finds that:

26 (i) The treatment is medically appropriate;

27 (ii) All less intrusive alternatives have been  
28 considered;

29 (iii) The treatment is substantially unlikely to  
30 produce a side effect that may undermine the fairness of the trial; and

31 (iv) There is a substantial government interest in  
32 the prosecution of the defendant.

33 (H) Days spent in the physical custody of the department  
34 under this subsection are considered days spent in custody for determining  
35 credit for time served.

36 (2) A copy of the report filed under § 5-2-327 shall be attached to the

1 order of commitment or order of conditional release.

2 (3)(A) At any time after the issue of a defendant's fitness to  
3 proceed has been raised, the court may, on a motion of the state, dismiss all  
4 charges pending against the defendant.

5 (B) If the court dismisses the charges pending against a  
6 defendant, the proceedings shall discontinue, and the defendant shall be  
7 discharged.

8 (b)(1) Within a reasonable period of time, ~~but in any case within ten~~  
9 ~~(10)~~ not to exceed six (6) months of a commitment pursuant to subsection (a)  
10 of this section, the department shall file with the committing court a  
11 written report indicating whether the defendant is fit to proceed, or if not,  
12 whether:

13 (A) The defendant's mental disease or defect is of a  
14 nature precluding restoration of fitness to proceed or it does not appear  
15 that the defendant will become fit to proceed within the reasonably  
16 foreseeable future; and

17 (B) The defendant presents a danger to himself or herself  
18 or to the person or property of another.

19 (2)(A) The court shall make a determination within ~~one (1) year~~  
20 eight (8) months of a commitment pursuant to subsection (a) of this section.

21 (B) Pursuant to the report of the department or as a  
22 result of a hearing on the report, if the court determines that the defendant  
23 is fit to proceed, prosecution in ordinary course may commence.

24 (C) If the defendant lacks fitness to proceed but does not  
25 present a danger to himself or herself or to the person or property of  
26 another, the court may release the defendant on conditions the court  
27 determines to be proper.

28 (D) If the defendant lacks fitness to proceed and presents  
29 a danger to himself or herself or the person or property of another, the  
30 court shall order the department to petition for an involuntary ~~admission~~  
31 commitment.

32 (E) Upon filing of an order finding that the defendant  
33 lacks fitness to proceed issued under subdivision (b)(2)(A) of this section  
34 with a circuit clerk ~~or a probate clerk~~, the circuit clerk ~~or the probate~~  
35 ~~clerk~~ shall submit a copy of the order to the Arkansas Crime Information  
36 Center.

1 (c)(1) On the court's own motion or upon application of the  
2 department, the prosecuting attorney, or the defendant, and after a hearing  
3 if a hearing is requested, if the court determines that the defendant has  
4 regained fitness to proceed, the criminal proceeding shall be resumed.

5 (2) If the defendant has been receiving and responding well to  
6 treatment, including medication, the court may make appropriate orders for  
7 the continued treatment or administration of medication, or both to maintain  
8 the fitness of the defendant throughout the remainder of the proceedings.

9 (3) However, if the court is of the view that so much time has  
10 elapsed since the alleged commission of the offense in question that it would  
11 be unjust to resume the criminal proceeding, the court may dismiss the charge  
12 regardless of whether the defendant has regained fitness to proceed.

13 (4)(A) On either the motion of the court or the state, a hearing  
14 shall be held to determine whether the charges against a defendant who lacks  
15 fitness to proceed due to mental disease or defect may be dismissed if the  
16 defendant remains without fitness to proceed for five (5) continuous years  
17 from the date of determination of lack of fitness.

18 (B) If the charges are dismissed, the dismissal shall be  
19 without prejudice to the state.

20 (C) If the court moves for a hearing, the state shall have  
21 notice of at least sixty (60) days before the hearing date unless the state  
22 consents to another date.

23 (d)(1) Persons authorized by this section to administer treatment or  
24 medication shall not be criminally liable for administering treatment or  
25 medication pursuant to this subchapter if done in good faith.

26 (2) Persons authorized to administer treatment or medication  
27 shall not be civilly liable for such activities when the persons acted in a  
28 reasonable manner and according to generally accepted medical and other  
29 professional practices.

30 (e)(1) A law enforcement officer or a corrections officer may employ  
31 reasonable force in cases where an individual refuses administration of  
32 court-ordered treatment or medication.

33 (2) A law enforcement officer or a corrections officer shall not  
34 be criminally or civilly liable for the use of reasonable force under  
35 subdivision (e)(1) of this section.

36

1 SECTION 6. Arkansas Code Title 5, Chapter 2, Subchapter 3, is amended  
2 to add an additional section to read as follows:

3 5-2-318. Restoration in county jails.

4 (a) Jail-based restoration services shall be permitted through  
5 telehealth.

6 (b) Jail-based restoration services that involve procedures other than  
7 or in addition to telehealth services may be provided upon the consent of the  
8 county sheriff or the keeper, superintendent, or administrator of the county  
9 jail.

10  
11 SECTION 7. Arkansas Code § 5-2-327 is amended to read as follows:

12 5-2-327. Examination of defendant – Fitness to proceed.

13 (a)(1)(A) Any party, by written motion, or the court, on  
14 the court's own motion, may raise the issue of the defendant's fitness to  
15 proceed.

16 (B) A written motion by the prosecuting attorney or  
17 defense counsel shall:

18 (i) State that the motion for examination of the  
19 defendant is made in good faith and not for the purpose of delay; and

20 (ii) Include facts and observations to support the  
21 motion for examination of the defendant.

22 (C) If the motion is denied, defense counsel may request  
23 an ex parte or in camera filing and hearing if an ex parte or in camera  
24 filing and hearing are necessary because the motion is based in whole or in  
25 part on information protected by the attorney-client privilege.

26 (D) For good cause shown, a request for an evaluation may  
27 be made by oral motion in court if the request:

28 (i) Is made in good faith and not for the purpose of  
29 delay; and

30 (ii) Contains sufficient facts and observations in  
31 support of the request for the court to consider the request.

32 (2) The court shall order an examination under this section if  
33 it finds there is a reasonable suspicion that a defendant is not fit to  
34 proceed.

35 (3) The court may dismiss a motion for examination under this  
36 section if the court determines that the motion:

1                   (A) Is frivolous; or  
2                   (B) Has stated no facts to support the request for  
3 examination.

4                   ~~(3)~~(4)(A) Subject to §§ 5-2-304 and 5-2-311, the court shall  
5 immediately suspend further proceedings in a prosecution if it has ordered an  
6 examination under this section.

7                   (B)(i) If a jury has been impaneled and the court suspends  
8 proceedings under subdivision ~~(a)(3)(A)~~ (a)(4)(A) of this section, the court  
9 may retain the jury or declare a mistrial and discharge the jury.

10                   (ii) A discharge of the jury is not a bar to further  
11 prosecution.

12                   ~~(4)~~(5)(A) If a court suspends further proceedings in the  
13 prosecution under subdivision ~~(a)(3)(A)~~ (a)(4)(A) of this section, the court  
14 shall enter an order+

15                   ~~(A) Appointing one (1) or more experts who do not practice~~  
16 ~~in the Arkansas State Hospital to examine the defendant and report on the~~  
17 ~~defendant's mental condition; or~~

18                   ~~(B)(i) Directing~~ directing the Director of the Division of  
19 Aging, Adult, and Behavioral Health Services of the Department of Human  
20 Services to provide an expert who will examine and report upon the  
21 defendant's mental condition.

22                   ~~(ii)~~(B) The director or his or her designee shall  
23 determine the location of the examination required under subdivision  
24 ~~(a)(4)(B)(i)~~ (a)(5)(A) of this section.

25                   (b) An examination ordered under this section shall be for a period  
26 not exceeding sixty (60) days unless the director or his or her designee  
27 determines a longer period of examination is necessary for the purpose of the  
28 examination.

29                   (c) The department shall provide for or arrange the fitness to proceed  
30 examination of the defendant at a jail, prison, community setting, or  
31 psychiatric hospital.

32                   (d)(1) A uniform order to be used by a court ordering an examination  
33 of a defendant's fitness to proceed under this section shall be developed by  
34 the Administrative Office of the Courts in conjunction with the following  
35 organizations:

36                   (A) The Arkansas Prosecuting Attorneys Association;



1 (B) The Department of Human Services; and  
2 (C) The Arkansas Public Defender Commission.  
3 (2) The uniform order developed under this subsection shall  
4 contain the following information:  
5 (A) The defendant's name, age, gender, and race;  
6 (B) The criminal charges pending against the defendant;  
7 (C) The defendant's attorney's name and address;  
8 (D) The defendant's custody status;  
9 (E) The case number for which the examination was ordered;  
10 (F) A unique identifying number on the incident reporting  
11 form as required by the Arkansas Crime Information Center; ~~and~~  
12 (G) The name of the requesting attorney, if applicable;  
13 and  
14 (H) An authorization to release and receive protected  
15 health information.

16 (3) An examination under this section shall not be conducted  
17 without using the uniform order required under this subsection.

18 (4) The uniform order shall require the prosecuting attorney to  
19 provide to the examiner any information relevant to the examination,  
20 including without limitation:

21 (A) The name and address of any attorney involved in the  
22 matter; and  
23 (B) Information about the alleged offense.

24 (5) The court ~~may~~ shall require the attorney for the defendant  
25 to make all reasonable efforts to provide to the examiner any available  
26 information relevant to the examination, including without limitation:

27 (A) Psychiatric records;  
28 (B) Medical records; or  
29 (C) Records pertaining to treatment of the defendant for  
30 substance or alcohol abuse.

31 ~~(d)~~(e)(1) An examination report ordered under this section shall be  
32 filed with the clerk of the court ordering the examination and is a public  
33 record.

34 (2) The court clerk shall provide copies of the examination  
35 report to the defendant's attorney and the prosecuting attorney.

36 ~~(e)~~(f)(1) An examination report prepared by an examiner ordered under

1 this section shall:

2 (A) Contain an opinion as to whether or not the defendant  
3 is fit to proceed and the basis for the opinion;

4 (B) Contain an opinion as to whether the defendant has a  
5 mental disease or defect;

6 (C) Contain a substantiated diagnosis in the terminology  
7 of the American Psychiatric Association's most current edition of the  
8 Diagnostic and Statistical Manual of Mental Disorders;

9 (D) Document that the examiner explained to the defendant:

10 (i) The purpose of the examination;

11 (ii) The persons to whom the examination report is  
12 provided; and

13 (iii) The limits on rules of confidentiality  
14 applying to the relationship between the examiner and the defendant; ~~and~~

15 (E) Describe, in specific terms:

16 (i) The procedures, techniques, and tests used in  
17 the examination;

18 (ii) The purpose of each procedure, technique, or  
19 test; and

20 (iii) The conclusions reached; and

21 (F) An opinion as to whether the defendant:

22 (i) Presents a substantial danger to himself or  
23 herself, others, or property; and

24 (ii) Presents a substantial risk to public safety  
25 without a prescribed regimen of medical, psychiatric, or psychological care  
26 or treatment.

27 (2) An examiner's opinion on the defendant's fitness to proceed  
28 or lack of fitness to proceed may not be based solely on the defendant's  
29 refusal to communicate during the examination.

30 (3)(A) During an examination to determine a defendant's fitness  
31 to proceed and in any examination report based on that examination, an  
32 examiner shall consider:

33 (i) The capacity of the defendant during criminal  
34 proceedings to:

35 (a) Rationally understand the charges against  
36 him or her and the potential consequences of the pending criminal

1 proceedings;

2 (b) Disclose to the defendant's attorney  
3 pertinent facts, events, and states of mind;

4 (c) Engage in a reasoned choice of legal  
5 strategies and options;

6 (d) Understand the adversarial nature of  
7 criminal proceedings;

8 (e) Exhibit appropriate courtroom behavior;  
9 and

10 (f) Testify;

11 (ii) As supported by current indications and the  
12 defendant's personal history, whether the defendant is a person with:

13 (a) A mental disease or defect; or

14 (b) An intellectual disability; and

15 (iii) The degree of impairment resulting from the  
16 mental disease or defect or intellectual disability, if existent, and the  
17 specific impact on the defendant's capacity to engage with the defendant's  
18 attorney in an effective manner.

19 (B) The information or lack of information contained in  
20 the examiner's report is not intended to limit the introduction of evidence  
21 regarding the defendant's fitness to proceed.

22 (4) If the examiner concludes that the defendant lacks fitness  
23 to proceed, the report shall contain:

24 (A) An opinion of the condition causing the lack of  
25 fitness to proceed;

26 (B) An opinion of the treatment necessary for the  
27 defendant to obtain fitness to proceed; and

28 (C) An opinion on the likelihood of the defendant  
29 attaining fitness to proceed under treatment.

30 ~~(f)~~(g) This subchapter does not preclude the defendant from having an  
31 examination conducted by an expert of the defendant's own choosing to  
32 determine the defendant's fitness to proceed, and the court shall provide the  
33 defendant's expert with a reasonable opportunity to examine the defendant  
34 upon a timely request.

35 ~~(g)~~(h) When the defendant has previously been found fit to proceed,  
36 the court may order a second or subsequent examination to determine a

1 defendant's fitness to proceed only if the court:

2 (1) Finds reasonable cause to believe that new or previously  
3 undiscovered evidence calls into question the factual, legal, or scientific  
4 basis of the opinion upon which the previous finding of fitness relied;

5 (2) Finds reasonable cause to believe that the defendant's  
6 mental condition has changed; or

7 (3) Sets forth in the order a factual or legal basis upon which  
8 to order another examination.

9 ~~(h)~~(i) Upon completion of examination under this section, the court  
10 may enter an order providing for further examination of the defendant and may  
11 order the defendant into the custody of the director for further examination  
12 and observation if the court determines that ~~commitment and further~~  
13 examination ~~are~~ is warranted.

14

15 SECTION 8. Arkansas Code § 5-2-328(a), concerning the procedure when a  
16 defendant intends to raise lack of criminal responsibility as an affirmative  
17 defense, is amended to add an additional subdivision to read as follows:

18 (4) An examination under this section shall be conducted only  
19 after the circuit court has found the defendant fit to proceed.

20

21 SECTION 9. Arkansas Code § 5-2-328(b)(2), concerning the uniform order  
22 for examination of a defendant's lack of criminal responsibility, is amended  
23 to read as follows:

24 (2) The uniform order developed under this subsection shall  
25 contain, without limitation, the following information:

26 (A) The defendant's name, age, gender, and race;

27 (B) The criminal charges pending against the defendant;

28 (C) The defendant's attorney's name and address;

29 (D) The defendant's custody status;

30 (E) The case number for which the examination was ordered;

31 (F) A unique identifying number on the incident reporting  
32 form as required by the Arkansas Crime Information Center; ~~and~~

33 (G) The name of the requesting attorney, if applicable;

34 and

35 (H) An authorization to release and receive protected  
36 health information.

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SECTION 10. Arkansas Code § 5-2-328(b)(4), concerning an order for examination of a defendant's lack of criminal responsibility, is amended to read as follows:

(4) The circuit court ~~may~~ shall require the attorney for the defendant to provide to the examiner a signed release of information and any available information relevant to the examination, including without limitation:

- (A) Psychiatric records;
- (B) Medical records; or
- (C) Records pertaining to treatment of the defendant for substance or alcohol abuse.

SECTION 11. Arkansas Code § 5-2-328(c), concerning the report of an examination of a defendant's lack of criminal responsibility, is amended to read as follows:

(c) An examination report prepared by an examiner ordered under this section shall contain:

- (1) A description of the nature of the examination;
- (2) An opinion as to whether as the result of a mental disease or defect the defendant at the time of the alleged offense lacked the capacity to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of the law, an explanation of the examiner's opinion, and the basis of that opinion;
- (3) When directed by the circuit court, an opinion as to whether at the time of the alleged offense the defendant lacked the capacity to form a culpable mental state that is required to establish an element of the alleged offense, an explanation of the examiner's opinion, and the basis of that opinion; ~~and~~
- (4) An opinion as to whether the defendant presents a substantial danger to himself, herself, or others or presents a substantial risk to public safety or to property without a prescribed regimen of medical, psychiatric, or psychological care or treatment; and
- (5) If an examination cannot be conducted because of the unwillingness of the defendant to participate in the examination, an opinion as to whether the unwillingness of the defendant is the result of mental

1 disease or defect.

2

3 SECTION 12. Arkansas Code § 5-2-331 is amended to read as follows:

4 5-2-331. Cost of mental health services, examination, and treatment of  
5 defendant.

6 (a) A person or entity that provides treatment or other mental health  
7 services under this subchapter may impose a charge for the cost of the  
8 treatment or other mental health services rendered.

9 (b) A charge for the cost of treatment or other mental health services  
10 under this section may not exceed the actual cost of the treatment or other  
11 mental health services provided.

12 (c)(1) If the Department of Human Services cannot accept a defendant  
13 that has been ordered by a court to the custody of the department, the  
14 department shall be responsible for the cost of the psychotropic medication  
15 prescribed by the department's designated vendor as necessary to restore the  
16 defendant's fitness to proceed.

17 (2) Responsibility for reimbursement under subdivision (c)(1) of  
18 this section shall begin on the date that the defendant is ordered to the  
19 custody of the department.

20 (d)(1) No more than thirty (30) days after the end of each quarter,  
21 the county sheriff or his or her designee shall prepare a quarterly invoice  
22 to be sent to the department for reimbursement that lists:

23 (A) Each defendant ordered to the custody of the  
24 department that has been detained in the county jail during the previous  
25 month;

26 (B) The number of days each defendant ordered to the  
27 custody of the department was in the county jail in awaiting-bed-space  
28 status; and

29 (C) An itemized list of medications prescribed to each  
30 defendant ordered to the custody of the department and the cost of the  
31 medications.

32 (2) The county sheriff or his or her designee shall provide  
33 supporting documentation to certify the costs to be reimbursed by the  
34 department.

35 (3) Quarters shall end September 30, December 31, March 31, and  
36 June 30 of each year.

1           (4) The certified invoices shall then be returned to the county  
2 sheriff or his or her designee with the department keeping a duplicate copy.

3           (5) Payment shall be made within ten (10) business days upon  
4 return of the certified invoices returned to each county.

5           (e)(1) The county sheriff shall maintain a quarterly invoice for three  
6 (3) calendar years.

7           (2) The quarterly invoice maintained by the county sheriff is  
8 subject to review by Arkansas Legislative Audit.

9           (3) A quarterly invoice under subsection (d) of this section  
10 shall be sent electronically.

11           (4) The department shall not issue any reimbursements under this  
12 subsection until the department receives a certified quarterly invoice with  
13 supporting documentation requesting reimbursement.

14           (f)(1) The Division of Aging, Adult, and Behavioral Health Services of  
15 the Department of Human Services shall promulgate rules establishing  
16 reasonable charges for the cost of treatment or other mental health services  
17 under this section.

18           (2) Rules establishing reasonable charges for the cost of  
19 treatment or other mental health services under this section shall provide  
20 for waiving or postponing the collection of the charges based on:

21                   (A) Clinical considerations;

22                   (B) The defendant's inability to pay; or

23                   (C) A court determination that the defendant is wholly or  
24 partly indigent and qualifies for the appointment of an attorney under § 16-  
25 87-213.

26  
27           SECTION 13. Arkansas Code § 5-4-102(c), concerning presentence  
28 investigations is amended to read as follows:

29           (c)(1) Before imposing sentence, the court may order the defendant to  
30 submit to psychiatric examination and evaluation ~~for a period not to exceed~~  
31 ~~thirty (30) days.~~

32           ~~(2) The defendant may be remanded for psychiatric examination~~  
33 ~~and evaluation to the Arkansas State Hospital, or the court may appoint a~~  
34 ~~qualified psychiatrist to make the psychiatric examination and evaluation~~  
35 court may direct the Department of Human Services to provide a qualified  
36 psychiatrist or qualified psychologist to make the examination and

1 evaluation.

2

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*/s/ Irvin*

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