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CORRECTIONS

COMMUNITY PUNISHMENT

Act 19 (SB 30) authorizes the transfer of certain inmates to community punishment facilities.

BOARD OF CORRECTION AND COMMUNITY PUNISHMENT

Act 26 (SB 44) authorizes members of the Board of Correction and Community Punishment to receive per diem of sixty dollars (\$60.00) per day for a maximum of three days per month for attending to official business of the board, other than official meetings of the board.

COUNTIES

TEMPORARY SALES TAX FOR CRIMINAL DETENTION PURPOSES

Act 64 (HB 1002) authorizes counties and municipalities to levy a temporary sales tax for up to thirty-six (36) months to finance capital improvements for criminal justice projects without incurring the extra costs involved in issuing bonds. A "criminal justice purpose" means public projects constructed or altered for the purpose of law enforcement, probation, rehabilitation, or detention of any criminals, courthouses, court facilities, jails, police stations and sheriff's offices, county and municipal criminal detention and correctional facilities, and juvenile detention facilities. It also provides that the county quorum court can vote, or refer to a vote of the county voters, to build a county jail facility at some location other than the county seat.

COURTS

CHANCERY JUDGE AT LARGE

Act 66 (SB 41) creates the position of Chancery Judge at Large to be appointed by the Governor from those judges who lost two years of their elected terms pursuant to Eugene Hunt v. State of Arkansas.

SEVENTEENTH JUDICIAL DISTRICT WEST

Act 29 (SB 26) creates an additional circuit-chancery judgeship in the 17th Judicial District West, effective January 1, 1995.

WALDRON MUNICIPAL COURT

Act 29 (SB 26) establishes the salary limits for the judge and clerk of the Waldron municipal court.

CRIMINAL LAW

CONTROLLED SUBSTANCES

Act 10 (SB 10) and Act 46 (HB 1007) enhance the criminal penalties for all other purposes other than disposition for the manufacture or delivery of Schedule 6 controlled substances.

CRIMINAL LAW (Cont).

JUVENILES

ARREST RECORDS

Act 37 (SB 7) and Act 38 (HB 1023) provide that the Arkansas Crime Information Agency shall collect and maintain juvenile arrest information for those allegations and adjudications of delinquency for which the Arkansas Juvenile Code authorizes fingerprints to be taken and maintained. It provides for the use of an "Arrest Tracking Number". The act allows for the sharing of conviction information for noncriminal justice purposes with federal governmental agencies.

CIRCUIT COURT JURISDICTION

Act 39 (SB 4) and Act 40 (HB 1019) add the following criminal offenses to those offenses for which a juvenile aged 14 or 15 years may be charged as an adult in circuit court: terroristic act; unlawful discharge of a firearm from a vehicle; any felony committed while armed with a firearm; soliciting a minor to join a criminal street gang; criminal use of a prohibited weapon; a felony attempt, solicitation or conspiracy to commit any of the following offenses - capital murder, murder in the first degree, murder in the second degree, kidnapping, aggravated robbery, rape, and battery in the first degree. The acts also allow the prosecutor to file charges in circuit court against a juvenile for other criminal acts arising out of the same course of conduct after a hearing before the juvenile division of chancery court.

FINGERPRINTING AND PHOTOGRAPHING OF JUVENILES

Act 70 (SB 6) and Act 69 (HB 1008) provide that juvenile records of delinquency adjudications for which a juvenile could have been tried as an adult shall be made available to prosecuting attorneys for use at sentencing on subsequent offenses for which the juvenile is tried as an adult or to determine if the juvenile should be tried as an adult. They provide that records of juvenile delinquency adjudications for which the juvenile could have been tried as an adult shall be kept for ten (10) years after the last adjudication of delinquency or the date of a plea of guilty or nolo contendere or finding of guilt as an adult. The acts allow the prosecuting attorney to provide information regarding juveniles who have been adjudicated delinquent to the victim, victim's next of kin, or the superintendent of schools in which the juvenile is currently enrolled, and further provides that the prosecuting attorney shall notify the superintendent of schools in which the juvenile is enrolled of offenses committed by the juvenile for which he could have been charged as an adult and for the unlawful possession of a handgun. They lower the state's burden of proof from "beyond a reasonable doubt" to "preponderance of the evidence" in juvenile probation revocation hearings and allow for commitment to a juvenile detention facility for up to ninety (90) days for violating the terms and conditions of probation. The acts provide that a juvenile shall be photographed and fingerprinted if arrested for an offense that, if committed by an adult, would constitute a felony, a Class A misdemeanor, or an offense wherein violence or the use of a weapon was involved and provides that a juvenile shall not be photographed or fingerprinted for allegations of delinquency except for the same type of offenses.

CRIMINAL LAW - JUVENILES (Cont.)

POSSESSION OF HANDGUN

Act 57 (SB 9) and Act 58 (HB 1018) enhance the criminal penalties for the possession of a handgun by a person under the age of eighteen (18), subject to enumerated defenses, if the person has previously been adjudicated delinquent for possessing a handgun, if the person has been previously adjudicated delinquent for any offense which would be a felony if committed by an adult, or if the person has pled guilty or nolo contendere or been found guilty of a felony in circuit court. The acts add a prohibition regarding the possession of a handgun upon the property of private institutions of higher education.

SEIZURE OF FIREARMS AND MOTOR VEHICLES

Act 56 (SB 5) and Act 55 (HB 1004) provide for the seizure and forfeiture of firearms unlawfully possessed by juveniles and provides for the seizure and forfeiture of a motor vehicle in which a juvenile is unlawfully possessing a firearm, subject to certain safeguards to protect primarily the owner and secured parties. The acts mandate that juveniles be taken into detention for certain offenses involving firearms and handguns. The acts set guidelines and limitations on the detention of juveniles taken into custody for other offenses. They provide for the detaining of juveniles in adult jails under certain circumstances and provide for the Governor to grant exemptions from "sight and sound" separation requirements under certain circumstances for limited periods of time.

SENTENCING OPTIONS EXPANDED

Act 62 (SB 12) and Act 61 (HB 1009) expand the sentencing options for juvenile judges under the Arkansas Juvenile Code for juveniles adjudicated delinquent. They provide juveniles may be sentenced to electronic monitoring or house arrest, the juveniles' parents may now be required to pay for their detention, and the juvenile court can now retain jurisdiction to modify or extend the sentencing of juveniles in some cases. The acts also provide for mandatory sentencing to a DHS-Youth Services facility for juveniles convicted of weapons offenses. The acts increase the maximum amount of restitution a juvenile judge can order from \$2,000 to \$10,000.

WAIVER OF RIGHT TO COUNSEL

Act 68 (SB 11) and Act 67 (HB 1005), amend the Arkansas Juvenile Code provisions on waiving the juvenile's right to counsel to allow juveniles taken into custody to waive their right to an attorney and make a statement under the same standard as adult arrestees. They also provide clarification of the authority of law enforcement officers to take statements of juvenile witnesses.

SENTENCING

DRUG ABUSE PROGRAM

Act 53 (SB 48) allows any judicial district, with the agreement of the parties, to establish a program whereby a defendant may be transferred to a pretrial or posttrial treatment program for drug abuse.