

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

DEPARTMENT Department of Corrections
 BOARD/COMMISSION Board of Corrections
 BOARD/COMMISSION DIRECTOR Secretary Lindsay Wallace
 CONTACT PERSON Tawnie Rowell
 ADDRESS 1302 Pike Ave Suite C, North Little Rock, AR
 PHONE NO. (501) 682-3309 EMAIL tawnie.rowell@doc.arkansas.gov
 NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING
Tawnie Rowell
 PRESENTER EMAIL(S) tawnie.rowell@doc.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?
Earned Release Credits
2. What is the subject of the proposed rule? Accrual and award of earned release credits
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.

[A.C.A. 12-29-702](#)

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.

[Exemption requested](#)

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).

[A.C.A. § 12-27-105 & 12-29-702](#)

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 Protect Arkansas Act requires that the Board of Corrections establish a rule that set guidelines for accrual of earned release credits for work practices, job responsibilities, good behavior, and involvement in rehabilitative activities while in the custody of the Division of Correction.](#)

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: [Only upon request](#)

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. [04/18/2025](#)

15. What is the proposed effective date for this rule? [03/07/2025](#)

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 Corrections

BOARD/COMMISSION Board of Corrections

PERSON COMPLETING THIS STATEMENT Tawnie Rowell

TELEPHONE NO. (501) 682-3309 **EMAIL** tawnie.rowell@doc.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 Earned Release Credits

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;

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

(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

(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.

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?

Current Fiscal Year

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

Total \$0.00 _____

Next Fiscal Year

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

Total \$0.00 _____

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

Current Fiscal Year

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

Total \$0.00 _____

Next Fiscal Year

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

Total \$0.00 _____

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

\$ 0.00 _____

Next Fiscal Year

\$ 0.00 _____

The Department has expended funds implementing the new time computation rules resulting from the Protect Arkansas Act- which this rule impacts. The portion attributable to changes in time computation are estimated to be approximately \$45,000, but these funds were required to be expended in order to implement the Act- not this rule specifically.

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.

Stricken language would be deleted from and underlined language would be added to the Code of Arkansas Rules.

Proposed Emergency Rulemaking

~~Title~~Earned Release Credits

Promulgated by: Board of Corrections

12 CAR § 60-116

Formatted: Font: (Default) Times New Roman

(a) Purpose. To ensure a uniform method by which inmates may accrue Earned Release Credits in accordance with Arkansas law.

Formatted: Font: (Default) Times New Roman

(b) Applicability. Eligible inmates in the custody of the Division of Correction.

Formatted: Font: (Default) Times New Roman, Not Bold

(c) Policy. It shall be the policy of the Board of Corrections to authorize accrual of Earned Release Credits to eligible inmates for participation in work practices, job responsibilities, good behavior, and involvement in rehabilitative activities while in the custody of the Division of Correction.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, Not Bold

(d) Definitions. As used in this section:

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, Not Bold

- (1) “Accrued earned release credits” means days earned as administered by the Director of the Division of Correction, through participation in work practices, job responsibilities, good behavior, and involvement in rehabilitative activities towards consideration for transfer to post-release supervision by the Post-Prison Transfer Board.
- (2) “Awarded earned release credits” means days of Accrued Earned Release Credits which have been awarded by the Post-Prison Transfer Board, thereby reducing the time an inmate is required to spend in confinement.
- (3) “Earned release credits” means days for which an inmate may accrue time towards transfer to post-release supervision upon award by the Post-Prison Transfer Board.
- (4) “Eligible offense” means an offense committed on or after January 1, 2025, for which an inmate is sentenced by the court to a period of incarceration in the

DRAFT

Arkansas Division of Correction and which is not ineligible for Earned Release Credits pursuant to A.C.A. § 16-93-1801 et. seq.

(5) “Release eligibility date (or R.E.D.)” means the date on which an inmate is projected to be eligible for transfer to post-release supervision if awarded all accrued earned release credits by the Post-Prison Transfer Board. This date is intended to demonstrate an inmate’s progress towards completion of his or her case plan and good behavior, and is subject to change based on classification, completion of assigned programs, and forfeited earned release credits.

(e) Procedures

(1) An inmate may accrue earned release credits on an eligible offense for participation in work practices, good behavior, and involvement in rehabilitative activities while in the custody of the division.

(2) Earned release credits shall not reduce an offenders’ period of confinement for more than the maximum amount authorized under A.C.A. § 16-93-1803 and 16-93-1804.

(3) Earned release credits may be accrued based on classification and completion of assigned programs.

(A) Maximum rate of potential accrual.

(i) For offenses eligible to earn up to 15% of the period of confinement in earned release credits, an offender may earn earned release credits totaling 7.5% of the period of confinement for that offense based on classification and earned release credits totaling 7.5% of the period of confinement for that offense based on completion of assigned programs.

(ii) For offenses eligible to earn up to 50% of the period of confinement in earned release credits, an offender may earn earned release credits totaling 25% of the period of confinement for that offense based on classification and earned release credits totaling 25% of the period of confinement for that offense based on completion of assigned programs.

Formatted

Formatted: Font: (Default) Times New Roman

Formatted: Font: Not Bold

Formatted: Font: Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

DRAFT

(iii) For offenses eligible to earn up to 75% of the period of confinement in earned release credits, an offender may earn earned release credits totaling 25% of the period of confinement for that offense based on classification and earned release credits totaling 50% of the period of confinement for that offense based on completion of assigned programs.

(B) Accrual for classification.

(i) Rate of accrual.

- (a) Class One (1) inmates accrue one (1) day of earned release credit for every day that he or she is classified as a Class One (1) inmate.
- (b) Class Two (2) Inmates accrue one (1) day of earned release credit for every three (3) days that he or she is classified as a Class Two (2) Inmate.
- (c) Class Three (3) Inmates accrue one (1) day of earned release credit for every seven (7) days that he or she is classified as a Class Three (3) inmate.
- (d) Class Four (4) Inmates do not accrue any days of earned release credit for good behavior while he or she is classified as Class Four (4) Inmate.
- (e) Regardless of Class, an inmate who is housed in Restrictive Housing does not accrue any days of Earned Release Credit for good behavior unless the Director, or designee, certifies that the inmate is held in Restrictive Housing for his or her protection or due to medical concerns and is not eligible for placement in general population.

(ii) Guidelines.

- (a) Maximum Days to be Accrued- At no point shall an inmate accrue more days of Earned Release Credit for good behavior and work practices than authorized by subdivision (e)(3)(A).

Formatted: Font: Not Bold

Formatted

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: (Default) Times New Roman

Formatted: Font: Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted

Formatted: Font: (Default) Times New Roman

Formatted: Font: Not Bold

DRAFT

(b) Forfeiture- Earned Release Credits for good behavior and work practices may be forfeited for disciplinary reasons as set out in Divisional policy.

(c) Restoration of Forfeited Credits- Division Directors may restore forfeited Earned Release Credits in accordance with Divisional policy.

Formatted

Formatted: Font: Not Bold

(C) Accrual for completion of assigned programs.

(i) Rate of accrual.

(a) Upon intake to a facility operated by the Department of Corrections, an inmate will be assessed to determine his or her criminogenic needs and a case plan comprised of programs targeted at addressing those needs.

Formatted: Font: Bold

(b) Only those programs authorized by the earned release credits committee are eligible for accrual of earned release credits.

Formatted: Font: Bold

(1) In determining whether a program is authorized to accrue earned release credits, the earned release credit committee shall consider the recommendation of the director and the likelihood that participation in the program will reduce the severity of at least one criminogenic risk factor.

(2) In analyzing the likelihood that participation in the program will reduce the severity of at least one criminogenic risk factor, the committee should consider reviews performed by the Quality Improvement and Program Evaluation Administrator if available.

Formatted: Font: Not Bold

Formatted: Font: Not Bold

(c) Each program authorized for accrual of earned release credits will be assigned a number of program units.

Formatted: Font: Bold

(d) The units for each assigned program in an inmate's case plan will be added together to determine a total number of

DRAFT

programming units. The number of units for each program will be divided by the total number of units assigned to determine the ratio at which each program is eligible to accrue Earned Release Credits.

(e) Upon successful completion of a program assigned as part of an inmate's case plan, he or she will accrue Earned Release Credit days as set out in this section.

(ii) Guidelines

(a) Maximum Days to be Accrued- At no point shall an inmate accrue more days of earned release credit for completion of assigned programs than authorized by subdivision (e)(3)(A).

(b) Earned release credits accrued for completion of assigned programs may not be forfeited for disciplinary reasons.

(c) As part of their review process, the Post-Prison Transfer Board may recommend additional programs for an inmate. Earned release credits may be accrued for these programs at a ratio based on the units of programming authorized in an inmate's initial case plan as determined at intake. However, the total number of days of Earned release credit for programs assigned at intake and programs recommended by the Post-Prison Transfer Board shall not exceed the total number of days authorized by subdivision (e)(3)(A).

(4) Earned release credits may reduce the length of time an offender spends in confinement, if awarded by the Post-Prison Transfer Board, but shall not reduce the length of sentence.

(5) Earned release credits do not reduce the length of any period of incarceration until awarded by the Post-Prison Transfer Board, but once accrued will reduce an inmate's Release Eligibility Date.

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Bold

Formatted: Font: Bold

(6) When the number of days of incarceration plus the number of days of earned release credits awarded by the Post-Prison Transfer Board equal or exceed the length of the period of incarceration imposed by the sentencing court, the inmate shall be transferred to post release supervision for the remainder of his or her sentence, unless revoked pursuant to rules promulgated by the Post-Prison Transfer Board.

Formatted: Font: Bold

(7) The Secretary of Corrections or designee shall produce a manual which provides examples of the application of this rule as well as a list of offenses and the maximum amount of earned release credit that may be accrued for that offense.

Formatted: Font: Bold

(8) Upon completion of an assessment of an inmate's criminogenic needs and determination of the inmate's case plan, he or she will be provided a one-page document clearly setting forth how to accrue maximum earned release credits against his or her sentence.

Formatted: List Paragraph, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

Formatted: Font: (Default) Times New Roman, Bold

Summary of Emergency Rule
Earned Release Credits
Board of Corrections

The proposed emergency rule on Earned Release Credits fulfils the requirements set out by the Protect Arkansas Act for the Board of Corrections to adopt a rule that sets guidelines for accrual of earned release credits for work practices, job responsibilities, good behavior, and involvement in rehabilitative activities while in the custody of the Division of Correction.

The proposed rule:

- Sets the maximum percentage of a sentence when can be accrued in earned release credits for (1) classification- which is based on good behavior, work practices, and job responsibilities and (2) involvement in programming- which consists of rehabilitative activities.
- Sets the rate of accrual for classification, which ranges from Class One to Class Four.
- Sets the rate of accrual for participation in programming at a rate determined by weighing the total number of days an inmate can earn for programming with the inmates criminogenic needs.

Statement of Emergency
Earned Release Credits
Board of Corrections

Accrual of release credits based on accountability and participation in programming is vital to reducing recidivism and reoffending by released inmates. Failure to do so could create a risk of imminent peril to public safety.



**STATE OF ARKANSAS
BUREAU OF
LEGISLATIVE RESEARCH**

Marty Garrity, Director
Kevin Anderson, Assistant Director
for Fiscal Services
Matthew Miller, Assistant Director
for Legal Services
Jessica Whittaker, Assistant Director
for Research Services
Eric Sanders, Assistant Director
for Information Technology Services

Memorandum

TO: Members, ALC – Executive Subcommittee

CC: Marty Garrity, Director, Bureau of Legislative Research

FROM: Grant Wise, Legislative Attorney, Administrative Rules Review Section, Legal Services Division

DATE: February 27, 2025

SUBJECT: Legal Authorization for the Emergency Promulgation of Proposed Earned Release Credits Rule

The Department of Corrections, Board of Corrections seeks legislative review and approval of the emergency promulgation of its proposed rule regarding earned release credits. Pursuant to Arkansas Code Annotated § 12-29-702(a), an inmate eligible to accrue earned release credits may accrue earned release credits against the time spent in confinement pursuant to a sentence to the Division of Correction by the sentencing court, subject to rules promulgated by the Board of Corrections. Arkansas Code Annotated § 12-29-702(b)(1) states the Board of Corrections shall promulgate rules and the Division of Correction shall administer rules that set guidelines for accrual of earned release credits for work practices, job responsibilities, good behavior, and involvement in rehabilitative activities while in the custody of the Division of Correction. Further, Arkansas Code Annotated § 12-29-702(b)(2) states the rules shall provide for uniform application of authorizing release to post-release supervision for an inmate who successfully completes programs determined to reduce recidivism and has met behavioral expectations while incarcerated.