

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

 ADMINISTRATIVE RULE STATE OF ARKANSAS BOARD OF CORRECTIONS	Section Number: 1200	Page Number: 1 of 5
	Board Approval Date: TBD	
	Supersedes: 1200	Dated: TBD
	Reference: A.C.A. § 12-30-401 et seq.	Effective Date: TBD
SUBJECT: Work/Study Release Program		

I. AUTHORITY:

The Board of Correction (Board) is vested with the authority to promulgate this rule by A.C.A. § 12-30-403 subject to the continuing review of the Governor who shall have the authority to rescind this rule.

II. PURPOSE:

This Administrative Rule establishes the policy by which the Arkansas Department of Corrections - Division of Correction (Division) institutes the Work/Study Release Program (the Program).

III. APPLICABILITY:

This Administrative Rule applies to all employees and inmates within the Division.

IV. POLICY:

To allow the orderly reintegration of selected inmates from a prison environment back into communities through participation in a Community or Unit/Center Work/Study Release Program. Only inmates who meet the eligibility criteria for Work/Study Release may be considered for placement in a Work/Study Release Program. The Director of the Division of the Correction is authorized to establish further policies necessary for the operation of a Work/Study Release Program.

V. PROCEDURES:

Pursuant to statutory authority, the following procedures are established for the selection of eligible inmates to be assigned to the Program.

A. Non-eligibility for Work/Study Release Program:

1. An inmate convicted of a capital offense, first degree murder, rape, kidnapping, or who has been convicted for a second or subsequent offense of aggravated robbery, or who is serving a life sentence, or who is under a sentence to be executed, is not eligible to participate in this program.

2. An inmate having an undisposed felony detainer, except a notification only detainer, filed against him/her is not eligible to participate in this program.
3. An inmate convicted of a felony escape is not eligible to participate in this program.

B. Eligibility for Work/Study Release Program:

1. The inmate must be eligible for minimum security status.
2. The inmate must have a parole eligibility release date within forty-eight (48) months of the date in which program eligibility is determined.
3. An inmate should have had no major disciplinary infractions for a period of not less than ninety (90) days immediately prior to application. The Warden/Center Supervisor, however, may waive this requirement and approve an inmate with disciplinary infractions within this window for selection and possible transfer to the Work/Study Release Program. The Director or designee must approve the waiver in writing prior to inmate being transferred to a Work/Study Release Program.
5. The inmate must exhibit a current medical classification commensurate with the expected work assignment. This classification will be reviewed by the transferring unit/center medical authority prior to final approval for Work/Study Release eligibility. The Warden/Center Supervisor shall ensure that the medical authority is made knowledgeable of the type of work program the inmate is allowed to participate in for any applicable medical related considerations. No inmate will be allowed to participate in a Work/Study Release Program if such participation requires physical capabilities beyond that which could have been routinely assigned at a unit/center.
6. If the inmate applies for a Study Release Program, that inmate must have sufficient time remaining on his/her sentence to complete one semester of study.
7. Priority for placement will be given to inmates returning to the geographical region served by a Work/Study Release Unit/Center.

C. Application Process:

1. Eligible inmates may submit a "Work/Study Release Application" form developed by the Division, to the Classification Officer and/or Work Release Warden/Center Supervisor. If the applicant meets the criteria for eligibility, the Classification Committee will consider the application and forward its recommendation to the Warden/Center Supervisor. The decision of the Classification Committee must be unanimous before a favorable recommendation is forwarded to the Warden/Center Supervisor.
2. Applicants who do not meet the eligibility criteria will be informed in writing by the Classification Officer or Work Release or Work/Study Release Warden/Center Supervisor, and a copy will be placed in the inmate's institutional file.

3. No application for a Work/Study Program will be favorably recommended by the Classification Committee unless the Committee is satisfied that the inmate meets all requirements of eligibility and that the inmate:
 - a. Does not have history of violence which would pose a risk to the community;
 - b. Does not constitute a security risk; and
 - c. Is capable of abiding by the terms and conditions of the Program.
4. Each inmate favorably recommended for transfer to a Work/Study Release Program will receive a work supervisor's evaluation that will be forwarded to the Unit Classification Committee for consideration prior to final approval.
5. Work/Release Wardens/Supervisors will have final approval of all Work/Study Release Program applicants.

D. Rules of the Work/Study Release Program:

1. Inmates participating in the Work/Study Release Program shall not:
 - a. Leave the State of Arkansas for any purpose or under any circumstances.
 - b. Leave the county to which he/she was assigned without the written consent of the Warden/Center Supervisor of the facility where the inmate is assigned.
 - c. Possess or consume alcoholic beverages or illegal drugs.
 - d. Visit any place of business where alcoholic beverages or marijuana are the major item sold or consumed.
 - e. Violate any Federal, State, County or Municipal laws.
 - f. Operate any motor vehicle without written consent of the Warden/Center Supervisor of the facility to which the inmate is assigned. In such a case, the inmate must be properly licensed and liability insurance documented before approval is given.
2. Transportation to and from work will be provided by the Division or by the employer upon written approval of the Work Release Center Supervisor.
3. Inmates selected to participate in Work/Study Release will agree to participate in self-improvement programs at the Work Release Center, Basic Education, drug treatment, GED, etc.
4. The inmates must obey all Division policies.
5. Inmates participating in the Work/Study Release Program will be required to sign an Agreement to Return Form developed by the Division.

E. Employment and Earnings of Inmates:

1. If a Work/Study Release inmate is terminated from his employment through no fault of his/her own, officials of the Work/Study Release Center will immediately assign the inmate to an institutional job. During this period of reassignment, which shall be no longer than fifteen (15) consecutive days (excluding holidays and weekends), every effort will be made by the Division and the inmate to regain employment. If, at the end of the reassignment period, employment has not been

found, the supervisor of the Program may administratively transfer this individual to an existing job assignment at the unit/center or transfer him/her back to the parent unit/center.

2. If an inmate is terminated for just cause, he/she will be dropped from the Program and transferred back to his/her parent unit/center.
3. If an inmate wishes to terminate his/her employment, he/she may do so after obtaining approval of the Work/Study Release Warden/Center Supervisor who will ensure the employer is notified.
4. The inmate may be awarded a program change when the supervisor feels it is in the best interest of the inmate, the Division, or his/her employer.
5. Earnings by the inmate shall be paid by check, or electronic transfer directly to the Division in the name of the inmate.
6. The Division shall retain an amount to be established by the Director, upon the review and approval of the Secretary of Corrections and the Board which will be used to compensate the Division for the cost of maintaining Work/Study Release Programs.
7. If the inmate has persons dependent upon him/her for support, the inmate shall be required to remit to such persons a minimum of one-third of his/her net income or that amount which may be required by court order. Net income is defined as income after taxes and compensation to the Division. If the inmate does not have any dependents, the one-third shall be deposited into a savings account maintained for the benefit of the inmate upon release.
8. The inmate will be allowed to spend up to an amount equal to the approved weekly commissary draw.
9. The remaining balance of his/her earnings will be deposited to the inmate's trust account. Any disbursements from this account must be approved by the Warden/Center Supervisor.
10. All fund balances of an inmate's trust account and savings account will be released to the inmate upon parole or discharge of sentence.
11. The inmate may request to draw from the inmate's trust account amounts necessary to provide his/her own clothing and items needed for work.

F. Medical Service:

1. The Division will not be liable for medical services for those Work/Study Release inmates on Furlough Status (AR 1200-A).
2. Medical service charges not covered by Workman's Compensation or other forms of insurance will be handled by the Division through its medical services program.
3. In the event medical treatment is required at work, the Warden/Center Supervisor and/or work supervisor is/are to be notified immediately by the inmate; or the employer if the inmate is unable to provide notice. Appropriate medical response measures will be initiated following notification.

4. An inmate who procures medical treatment while engaged in a working capacity, without consulting or advising Division staff, will be responsible for such incurred costs. Disciplinary action may follow, to include program expulsion.

G. Legal Services:

An inmate in need of legal services while assigned to a Work/Study Release Program may contact the Inmate Attorney assigned to the Board's Compliance Division or may obtain legal services through a request to draw from those monies earned on Work/Study Release. The inmate may be transferred to a unit/center where a complete law library is available.

AR 1200 Work/Study Release Program

Summary

This proposed amendment allows inmates with notification-only detainers to be transferred to Work Release, expands the transfer eligibility window for consideration of placement in Work Release from forty-two months to forty-eight months (meaning that an inmate must have a parole eligibility release date within 48 months of the date in which program eligibility is determined), and makes minor terminology edits to the existing rule.



ADMINISTRATIVE RULE
STATE OF ARKANSAS
BOARD OF CORRECTIONS

Section Number:

1200

Page Number:

1 of 5

Board Approval Date:

TBD8/12/10

Supersedes:

1200

Dated:

8/22/10TBD

Reference:

A.C.A. § 12-30-401 et seq.

Effective Date:

TBD

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Work/Study Release Program

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A. Non-eligibility for Work/Study Release Program:

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2. An inmate having an undisposed felony detainer, except a notification only detainer, filed against him/her is not eligible to participate in this program.
3. An inmate convicted of a felony escape is not eligible to participate in this program.

B. Eligibility for Work/Study Release Program:

1. The inmate must be eligible for minimum security status.
2. The inmate must have a parole eligibility release date within ~~forty-two (42)~~forty-eight (48) months of the date in which program eligibility is determined.
3. An inmate should have had no major disciplinary infractions for a period of not less than ninety (90) days immediately prior to application. The Warden/Center Supervisor, however, may waive this requirement and approve an inmate with disciplinary infractions within this window for selection and possible transfer to the Work/Study Release Program. The Director or designee must approve the waiver in writing prior to inmate being transferred to a Work/Study Release Program.
5. The inmate must exhibit a current medical classification commensurate with the expected work assignment. This classification will be reviewed by the transferring unit/center medical authority prior to final approval for Work/Study Release eligibility. The Warden/Center Supervisor shall ensure that the medical authority is made knowledgeable of the type of work program the inmate is allowed to participate in for any applicable medical related considerations. No inmate will be allowed to participate in a Work/Study Release Program if such participation requires physical capabilities beyond that which could have been routinely assigned at a unit/center.
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2. Applicants who do not meet the eligibility criteria will be informed in writing by the Classification Officer or Work Release or Work/Study Release Warden/Center Supervisor, and a copy will be placed in the inmate's institutional file.

3. No application for a Work/Study Program will be favorably recommended by the Classification Committee unless the Committee is satisfied that the inmate meets all requirements of eligibility and that the inmate:
 - a. Does not have history of violence which would pose a risk to the community;
 - b. Does not constitute a security risk; and
 - c. Is capable of abiding by the terms and conditions of the Program.
4. Each inmate favorably recommended for transfer to a Work/Study Release Program will receive a work supervisor's evaluation that will be forwarded to the Unit Classification Committee for consideration prior to final approval.
5. Work/Release Wardens/Supervisors will have final approval of all Work/Study Release Program applicants.

D. Rules of the Work/Study Release Program:

1. Inmates participating in the Work/Study Release Program shall not:
 - a. Leave the State of Arkansas for any purpose or under any circumstances.
 - b. Leave the county to which he/she was assigned without the written consent of the Warden/Center Supervisor of the facility where the inmate is assigned.
 - c. Possess or consume alcoholic beverages or illegal drugs.
 - d. Visit any place of business where alcoholic beverages or marijuana are the major item sold or consumed.
 - e. Violate any Federal, State, County or Municipal laws.
 - f. Operate any motor vehicle without written consent of the Warden/Center Supervisor of the facility to which the inmate is assigned. In such a case, the inmate must be properly licensed and liability insurance documented before approval is given.
2. Transportation to and from work will be provided by the Division or by the employer upon written approval of the Work Release Center Supervisor.
3. Inmates selected to participate in Work/Study Release will agree to participate in self-improvement programs at the Work Release Center, Basic Education, drug treatment, GED, etc.
4. The inmates must obey all Division policies.
5. Inmates participating in the Work/Study Release Program will be required to sign an Agreement to Return Form developed by the Division.

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found, the supervisor of the Program may administratively transfer this individual to an existing job assignment at the unit/center or transfer him/her back to the parent unit/center.

2. If an inmate is terminated for just cause, he/she will be dropped from the Program and transferred back to his/her parent unit/center.
3. If an inmate wishes to terminate his/her employment, he/she may do so after obtaining approval of the Work/Study Release Warden/Center Supervisor who will ensure the employer is notified.
4. The inmate may be awarded a program change when the supervisor feels it is in the best interest of the inmate, the Division, or his/her employer.
5. Earnings by the inmate shall be paid by check, or electronic transfer directly to the Division in the name of the inmate.
6. The Division shall retain an amount to be established by the Director, upon the review and approval of the Secretary of Corrections and the Board which will be used to compensate the Division for the cost of maintaining Work/Study Release Programs.
7. If the inmate has persons dependent upon him/her for support, the inmate shall be required to remit to such persons a minimum of one-third of his/her net income or that amount which may be required by court order. Net income is defined as income after taxes and compensation to the Division. If the inmate does not have any dependents, the one-third shall be deposited into a savings account maintained for the benefit of the inmate upon release.
8. The inmate will be allowed to spend up to an amount equal to the approved weekly commissary draw.
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An inmate in need of legal services while assigned to a Work/Study Release Program may contact the Inmate Attorney assigned to the Board's Compliance Division or may obtain legal services through a request to draw from those monies earned on Work/Study Release. The inmate may be transferred to a unit/center where a complete law library is available.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Corrections

DIVISION Division of Correction

PERSON COMPLETING THIS STATEMENT Tameca Williams

TELEPHONE NO. 870-267-6345 FAX NO. 870-267-6244 EMAIL: Tameca.Williams@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE AR 1200 Work/Study Release Program

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes ___ No X
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 X 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 X No ___

If an agency is proposing a more costly rule, please state the following: **N/A**

(a) How the additional benefits of the more costly rule justify its additional cost; **N/A**

(b) The reason for adoption of the more costly rule; **N/A**

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and **N/A**

(d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain. **N/A**

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 \$0 _____

Next Fiscal Year

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

Total \$0 _____

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

Current Fiscal Year

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

Total \$0 _____

Next Fiscal Year

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

Total \$0 _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected. N/A

Current Fiscal Year

\$0 _____

Next Fiscal Year

\$0 _____

6. What is the total estimated cost by fiscal year to state, county, and 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 _____

Next Fiscal Year

\$0 _____

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 X

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.