

# ARKANSAS REGISTER

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JUL 18 1991

J. "BILL" McCuen  
SECRETARY OF STATE

Secretary of State  
State Capitol Rm. 010  
Little Rock, Arkansas 72201-1094

For Office  
Use Only:

Effective Date 07/02/91 Code Number 004.00.91-014

Name of Agency Arkansas Department of Correction

Department of Correction

Contact Person A. L. Lockhart, Director

Statutory Authority for Promulgating Rules Act 50 of 1968, First Extraordinary Session, as amended

REPEALED - Administrative Regulation 880 - Alternative Service Date

Intended Effective Date

☐ Emergency

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☒ Other

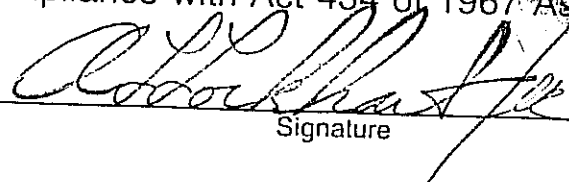
Filed With Legislative Council . . . . . 6/10/91

Reviewed by Legislative Council . . . . . 6/26/91

Adopted by State Agency . . . . . 7/17/91

### CERTIFICATION OF AUTHORIZED OFFICER


I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with Act 434 of 1967 As Amended.

  
Signature

DIRECTOR  
Title

July 17, 1991  
Date

004.00.91--014

 <p><b>ADMINISTRATIVE REGULATIONS</b>  <b>STATE OF ARKANSAS</b>  <b>DEPARTMENT OF CORRECTION</b></p> <p style="text-align: center;"><b>RECEIVED</b></p> <p style="text-align: center;">JUL 18 1991</p> <p style="text-align: center;">W. J. "BILL" MCCUEN          SECRETARY OF STATE</p>	Section Number 880	Page Number 1 of 6
	Board of Correction Approval Date 7/14/83	
	Attorney General Review Date 7/14/83	Dated: 9/30/82
	Date Filed Sec'y of State 1/16/84	
SUBJECT: Alternative Service Act By _____		

I. POLICY OF DEPARTMENT: The Commission on Community Based Rehabilitation, in conjunction with the Director of the Department of Correction, can certify the diversion or transfer of eligible offenders to Alternative Service Programs, provide for expungement of criminal records of eligible offenders, promulgate rules and regulations for the operation and supervision of Alternative Service Programs, and collect fees and disburse funds for the purpose of defraying operating costs of the Program.

II. EXPLANATION:

A. Requirements for Certifying Alternative Service Programs:

1. Programs eligible to be certified are those providing corrective and preventive guidance and/or training designed to rehabilitate eligible offenders and protect the public by correcting the antisocial tendencies of eligible offenders.
2. An investigation of prospective Programs will be performed by the Community Services Office to determine if the prospective Program meets the standards as set forth by Act 378 of 1975, as amended, (Ark. Stat. 43-2340).
3. Upon completion of an investigation, the Community Services Office will present the prospective Program to the Commission on Community Based Rehabilitation and Director for review and certification. The Alternative Service Program will be certified for one year. Termination of certification may be initiated by either the Department of Correction or the certified Alternative Service Program by giving written notice thirty (30) days before the date of termination.
4. Upon final approval of each certified Program, the Community Services Office will notify courts, in writing, having criminal jurisdiction, of the availability of the Certified Alternative Service Program.



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**B. Eligibility:**

1. In order for an offender to participate in the Alternative Service Program, the offender must meet certain criteria for eligibility pursuant to Act 378 of 1975, as amended, (Ark. Stat. 43-2340, 43-2342, 43-2346).
2. The Commitment Order will indicate that a person has been committed to the Arkansas Department of Correction for designated time pursuant to Act 378 of 1975, as amended, (Ark. Stat. 43-2340, 43-2342, 43-2346), and must specify that the sentence is under either Section IV C or Section IV D of the Act. The Commitment Order must also specify that the offender has knowingly and intelligently consented to sentencing under the provisions of this Act.
3. If a felony detainer has been placed on an offender sentenced pursuant to the Act, that offender will not be considered for release under the Act until the detainer has been disposed of.
4. Those offenders diagnosed by history, self-admission, and psychological testing as using illegal drugs regularly, consuming an average of more than two ounces of ethonol frequently, or where alcohol or drugs were involved in their criminal activity, will be required to take positive action to control this behavior by participating in the Substance Abuse Treatment Program.

**C. Procedures for Placement into an Alternative Service Program:**

1. All eligible offenders will be given a psychological evaluation, interpreted and signed by the Correctional Chief Psychologist. This psychological evaluation must have been conducted within ninety (90) days of the Commission's deliberations. A background investigation will be done on eligible offenders by the Community Services staff before being reviewed by the Commission.
2. The eligible offender will be reviewed by the Warden/Center Supervisor and the Unit/Center Classification Committee pertaining to the eligible offender's conduct and progress made while at the unit/center and a recommendation will be made by the Warden/Center Supervisor to the Supervisor of Community Services.



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3. The victims, along with the appropriate Sheriffs, Prosecuting Attorneys, and Judges, will be notified, in writing, by the Community Services Office.
4. The eligible offender's institutional file will be made available to the Commission for review during meetings.
5. Factors considered by the Commission include, but are not limited to, institutional adjustment, conduct, attitude, appearance and work history since incarceration.
6. If the eligible offender is approved for transfer by the Commission on Community Based Rehabilitation and Director, the Community Services Office will be responsible for completing the necessary forms for transfer.
7. If an eligible offender is not approved by the Commission on Community Based Rehabilitation or the Director, a written report prepared by the Community Services Office will be given to the eligible offender stating the reason(s) for denial and when he/she will be reconsidered. A copy will be sent to the Warden/Center Supervisor to be placed in the inmate's institutional file.
8. If the eligible offender is denied admission to an Alternative Service Program, he/she will be eligible for reconsideration at a time set by the Commission on Community Based Rehabilitation or the Director. If no date is set, the eligible offender will be reviewed again in six (6) months.

D. Supervision:

1. Any individual placed in an Alternative Service Program will be under the supervision of that Program and shall hereinafter be referred to as the "378 participant". The Area Parole Officer will provide assistance to the Program in working with the "378 participant", i.e., issuing warrants, giving assistance in supervisory procedures, etc.
2. The "378 participant" will report to the Area Parole Officer or Alternative Service Program upon his/her arrival into the community.



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3. The Supervising Agency will keep a chronological report on the "378 participant". At intervals, as agreed upon between the Supervising Agency and the Community Services Supervisor, the chronological report will be mailed to the Community Services Office.
  4. All "378 participants" will remain under the control of the Department of Correction.
  5. The Area Parole Officer will take direct supervision of a "378 participant" if supervision is warranted. If the Area Parole Officer assumes direct supervision, he/she will submit a report to the Community Services Office within forty-eight (48) hours. If the "378 participant" violates any conditions of his/her Order of Agreement, a hearing may be conducted by the Field Services Hearing Examiner to determine if there is just cause to return the "378 participant" to a unit/center of the Arkansas Department of Correction.
- E. Expunging "378 Participants" Records:
1. "378 participants" sentenced to the Arkansas Department of Correction under Act 378 of 1975, as amended, (Ark. Stat. 43-2340, 43-2342, 43-2344), may receive an expungement of records, by the following process:
    - a. One year must elapse after a "378 participant" completes his/her sentence before applying for an expungement.
    - b. After the "378 participant" completes the sentence, as outlined in E.1.a., the Community Services staff will advise the appropriate court that he/she is eligible for expungement of his/her record. A report of the individual's progress and conduct will be submitted to the Commission on Community Based Rehabilitation for review. After reviewing the information, the Commission may approve an expungement, contingent upon the Director's approval.



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- c. Upon approval, the Chairman of the Commission on Community Based Rehabilitation and the Director will sign a certificate of expungement to be presented to the "378 participant".
  - d. The Community Services staff will notify all pertinent law enforcement agencies and the Circuit Clerk's Office(s) that the "378 participant's" record has been expunged; therefore, the record will be sealed, sequestered, and opened only to law enforcement or judicial officials.
2. "378 participants" on probation under Act 378 of 1975, as amended, (Ark. Stat. 43-2340, 43-2342, 43-2344), may receive expungement of records according to the following process:
    - a. When the terms of probation are successfully completed by the "378 participant", his/her record may be reviewed by the court and ordered expunged. The order of the court will be presented to the Chairman of the Commission on Community Based Rehabilitation and the Director for signature. The certificate will be mailed to the "378 participant" by the Community Services Office.
    - b. The Community Services Office will notify the pertinent law enforcement agencies and the Circuit Clerk's Office(s) that the "378 participant's" record has been expunged and the record sealed or sequestered, to be made available only to law enforcement or judicial officials.
- F. Violation of Order of Agreement:
1. If a violation of an Order of Agreement is suspected, the Supervisor of Community Services will ask that an investigation be conducted by the supervising officer or Alternative Service Program.
  2. If it appears, through investigation, that probable cause exists and that the Order of Agreement was violated, charges will be written by the supervising officer or Alternative Service Program and submitted to the Supervisor of Community Services. The "378 participant" may be detained in the local jail facility, if felt necessary, for the protection of the "378 participant" and/or the community and/or to assure an appearance at the Alternative Service Hearing.



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3. If the "378 participant" was deferred directly to the Alternative Service Program from the court, a report will be made to the prosecuting attorney and the sentencing judge for their determination of whether or not the probation should be revoked.
4. If the "378 participant" was transferred to an Alternative Service Program by the Department of Correction, an Alternative Service Hearing will be conducted in accordance with rules and regulations of the Community Services Office.
5. The Field Services Hearing Examiner may grant a continuance in holding a hearing at the request of the "378 participant". The Supervisor of Community Services may release the "378 participant" from custody in case of a continuance if he/she determines such release would not pose a threat to the safety of the community and that the "378 participant" is not likely to flee.
6. The Field Services Hearing Examiner shall conduct all hearings on "378 participants" who were transferred to Alternative Service Programs. The decision of the Field Services Hearing Examiner will be final unless it is overturned or modified on appeal. An appeal of the decision is to be made to the Assistant Director for Field Services. The Assistant Director's decision may be appealed to the Director.

G. Payment:

Section 10 of Act 373 of 1975, (Ark. Stat. 43-2347), enables the Department to collect fees and disburse funds for the purpose of defraying the costs of establishing and operating Alternative Service Programs, according to AR 111, Community Service Revolving Fund.