

ARKANSAS REGISTER

FILED

Transmittal Sheet

APR 29 1992



W. J. "BILL" McCUEN
SECRETARY OF STATE

W. J. "Bill" McCuen
Secretary of State
State Capitol Rm. 010
Little Rock, Arkansas 72201-1094

For Office

Use Only:

Effective Date 5/19/92

Code Number 004.00.92--005"

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.

Intended Effective Date AR1212-Inmates Housed in County Jails (ACT309)

Date

☐ Emergency

Legal Notice Published 11/1-7/91

☐ 20 Days After Filing

Final Date for Public Comment 11/19/91

☒ Other

Filed With Legislative Council 2/27/92

Please use 5/19/92 as the
effective date

Reviewed by Legislative Council 4/2/92

Adopted by State Agency 4/28/92

CERTIFICATION OF AUTHORIZED OFFICER

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

A handwritten signature in cursive script, appearing to read "A. L. Lockhart", written over a horizontal line.

Signature

Director

Title

April 28, 1992

Date



ADMINISTRATIVE REGULATIONS
STATE OF ARKANSAS
DEPARTMENT OF CORRECTION

Section Number

1212

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Board of Correction Approval Date:

4/28/92

Supersedes:

EMERG, AR 1212

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2/27/92

Attorney General

Review Date:

4/28/92

Date Filed

Secy. of State:

4/29/92

SUBJECT: Inmates Housed in County Jails (Act 309)

FILED

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I. AUTHORITY:

W. J. "BILL" McCUEN
SECRETARY OF STATE

BY

The authority of the Board of Correction to promulgate this Administrative Regulation is confirmed in Act 50 of 1968, First Extraordinary Session, as amended; Act 309 of 1983, Regular Session, as amended; and Act 1112 of 1991, Regular Session.

II. PURPOSE:

To establish regulations pursuant to Act 309 of 1983, and Act 1112 of 1991; and to delineate the cooperative agreement to be executed.

III. APPLICABILITY:

To Departmental staff, inmates meeting criteria, and county officials (sheriffs).

IV. POLICY:

It shall be the policy of the Department to allow the Director to sign cooperative agreements between county officials and the Department of Correction for the purpose of providing additional space for the care and custody of State inmates on a temporary basis in county jails and/or placement of State inmates under the supervision of the county sheriff who may subsequently be released to parole officer supervision.

It shall be the responsibility of the county to ensure that assigned inmate(s) are not used to provide personal services for private benefits, to act in a law enforcement capacity, nor supervise other inmate(s). Inmates released under Act 309 In-Jail and Act 309 Work will not be used to replace city, county, state or federal employees.



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V. DEFINITIONS:

Inmate(s) transferred to a county jail under Act 309 will be transferred under one of the following: 309 In-Jail, 309 Work, or 309 Conditional Release. Request for an inmate to be transferred under Act 309 must be in writing from the sheriff to the Department of Correction.

An inmate(s) being considered for participation in Act 309 needs to be approved by the unit warden/center supervisor and must meet the following criteria:

1. Has completed the 60 day initial job assignment with the Arkansas Department of Correction and be in Class I or Class II status;
 2. Is capable of abiding by the rules and regulations of the program;
 3. Does not have an undisposed felony detainer filed against him or her unless approved for transfer by the agency filing detainer.
- A. 309 In-Jail: Those inmates who are pre-release (minimum and medium security) and/or inmates who are incarcerated within the Arkansas Department of Correction and have been accepted/requested by the county. These inmates must remain in the county jail facility, and the county will be reimbursed for housing these inmates. Transfer of these inmates will be coordinated by the Assistant Director of Field Services.
- B. 309 Work: A 309 Work transfer is an inmate released to the jurisdiction of the sheriff who may, after Director and/or Board of Correction approval, be utilized by the county to work in and around governmental property/projects while under supervision of the sheriff or his or her designee. These inmates



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will be housed in the county jail. Counties will be reimbursed for these inmates. The county will be responsible for the normal medical care of these inmates.

- C. 309 Conditional Release: A 309 Conditional Release may, after Director and/or Board of Correction approval, be released into the community by the sheriff's office. Counties will not be reimbursed for these inmates. ADC nor the county will be responsible for the medical care of these inmates. These inmates will be under the supervision of the sheriff and/or the Parole Services staff.

All 309 Work and Conditional Transfer inmates must meet the following criteria:

1. Inmates convicted of the offense of rape, a capital offense, or murder in the first degree will not be eligible for transfer into Act 309 Work and/or Conditional Release Transfer.
2. An inmate who is serving a sentence for a non-violent crime as identified by Act 230 of 1983, may be released under 309 Work and/or 309 Conditional Release Transfer after being authorized by the Director.
3. Violent offenders who are ineligible for release under Act 814 and/or Act 230 may be released under 309 Work and/or Conditional Release Transfer if they are first offenders, there are mitigating circumstances, and they are approved by the Director and Board of Correction.
4. Inmates participating in a conditional release transfer will be subject to payment of Act 70 supervision fees as established by departmental regulations.



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Upon receipt of a request from the county sheriff for an inmate to participate in conditional release transfer, the Community Services office shall cause a victim's notification to be sent to the victim or victim's next of kin if the inmate's conviction was the result of a crime involving injury or the threat of injury and when their whereabouts can be determined. A field report will be requested for presentation to the Board.

Notification shall also be sent to the sentencing judge and the prosecuting attorney and sheriff in the county(ies) of conviction for conditional release transfer.

After an inmate is transferred from the department to the jurisdiction of a county sheriff, and the inmate is subsequently transferred/released to another sheriff's jurisdiction, the sheriff relinquishing custody/supervision shall notify the receiving sheriff and the Department of Correction prior to the inmate's transfer/release. Inmates in conditional release may transfer out of state provided they are processed according to rules and regulations of the Interstate Compact.

VI. PROCEDURES:

- A. The Assistant Director of Field Services shall be responsible for conducting the program including ascertaining and promoting the sheriff's interest in the program and to ensure that an appropriate agreement is provided to all interested sheriffs.
- B. A cooperative agreement will be executed between the county and the Arkansas Department of Correction pursuant to Act 309 of 1983, as amended; and Act 1112 of 1991.
- C. Should questions arise concerning a 309 In-Jail or 309 Work's medical or mental health condition or case, the Medical Services Administrator should be contacted. He or she will evaluate the situation to



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determine the type of treatment or services to render to the inmate. Some cases may require transferring the inmate back to the department. ADC nor the county will be responsible for medical care of conditional release transfers.

- D. An Administrative Directive will be formulated to outline the procedures to be followed pertaining to Act 309 of 1983, as amended, and Act 1112 of 1991.
- E. Inmates found to be in violation of their conditions of release under conditional release will be given a hearing to determine the nature and seriousness of their violations. The hearing officer will determine the inmate's guilt or innocence and hand down an appropriate sentence. Procedures for the hearing will be included in an Administrative Directive.

Those inmates participating in the Act 309 Program of 1983, as of June 27, 1991, are approved by the Board of Correction for conditional release transfer upon approval of the appropriate county sheriff and the Director.

AR1212