

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
John Thurston
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Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



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 _____

AR 005 Reporting of Incidents

Summary

This is an existing rule that is being revised in order to capture organizational changes resulting from the Transformation and Efficiencies Act of 2019. This will ensure that all significant events or situations occurring within the Department of Corrections are completely documented by those present, and that the Board of Correction and all appropriate personnel are informed of the incident in a timely manner.



ADMINISTRATIVE RULE

STATE OF ARKANSAS

BOARD OF CORRECTIONS

Section Number:

ADC- 005

ACC- 4.2

Page Number:

1 of 1

Board Approval Date:

Supersedes:

005

Dated:

Reference:

Effective Date:

SUBJECT: Reporting of Incidents

I. AUTHORITY:

The authority of the Board of Corrections to promulgate this Administrative Rule is found in Ark. Code Ann. § 25-43-401.

II. POLICY:

It is the policy of the Board of Corrections to ensure that all serious incidents occurring within a facility or center housing inmates or offenders, or while an offender is under the supervision of the department, are completely documented by those present, and that the Board of Corrections and all appropriate Department personnel are informed of the incident in a timely manner.

As used in this Administrative Rule, the term "offender" applies to inmates, residents, parolees, and probationers; in addition to residents in a community correction center or reentry center.

II. PURPOSE:

A. The Secretary of the Department of Corrections shall issue a directive containing procedures ensuring that all serious incidents are reported consistent with this rule. The issuance or revision of any policy governing the reporting of incidents within the Department of Corrections that narrows reporting requirements shall be reported to Board of Corrections.

B. Incident reporting procedures shall provide for the immediate notification of all serious incidents to the following individuals:

1. The Chairman of the Board of Corrections;
2. The Assistant to the Board of Corrections who shall notify the remaining members;
3. The Secretary of the Department of Corrections;
4. The Division Director; and
5. The Department's Liaison in the Governor's Office.

C. All employees shall complete the Department's Incident Report Form as soon as practical following an incident. This report shall be promptly entered in the Electronic Offender Management Information System, or its successor, forwarded to the Unit Warden, Center Supervisor, Area Manager, or Administrator, and distributed via the appropriate incident notification list.

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Deleted: Every employee is required to fully document any of the following incidents, whether he/she is a participant or simply observes the situation:¶

- any disturbance;¶
- an inmate assault on another inmate;¶
- an inmate assault on an employee;¶
- use of force by an employee on an inmate;¶
- an inmate suicide attempt;¶
- escapes or unauthorized absences;¶
- inmate or employee deaths;¶
- major property loss or damage;¶
- the personal knowledge of inmate or staff giving false information;¶
- a violation of any Division policy;¶
- any inmate or employee actions which could lead to criminal charges.The

Deleted: <#>The employee shall complete the attached Form F-005/409-1 as soon as practical. This report shall be promptly entered in the Electronic Offender Management System and forwarded ¶ to the Unit Warden/Center Supervisor/Administrator.¶

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Deleted: The Unit Warden/Center Supervisor/Administrator shall forward all incident reports of use of force by an employee on an inmate to the appropriate Deputy Director. All other reports of a serious nature, as so determined by the Unit Warden/Center Supervisor/Administrator, shall also be forwarded to the Deputy Director

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D. The Director shall issue an Administrative Directive to ensure that all notifications are made and recorded appropriately. ¶

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AR 005¶

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 <p style="text-align: center;">ADMINISTRATIVE RULE</p> <p style="text-align: center;">STATE OF ARKANSAS</p> <p style="text-align: center;">BOARD OF CORRECTIONS</p>	Section Number: ADC- 005 ACC- 4.2	Page Number: 1 of 1
	Board Approval Date:	
	Supersedes: 005	Dated:
	Reference:	Effective Date:
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QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Department of Corrections

DIVISION Secretary's Office

DIVISION DIRECTOR Secretary Solomon Graves

CONTACT PERSON Lindsay Wallace

ADDRESS 1302 Pike Avenue, Little Rock, AR 72114

PHONE NO. 501-682-3309 **FAX NO.** 501-537-3958 **E-MAIL** Lindsay.Wallace@arkansas.gov

NAME OF PRESENTER AT COMMITTEE MEETING Lindsay Wallace

PRESENTER E-MAIL Lindsay.Wallace@arkansas.gov

INSTRUCTIONS

- A.** Please make copies of this form for future use.
- B.** Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C.** If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D.** Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

- 1. What is the short title of this rule? AR 005 Reporting of Incidents
- 2. What is the subject of the proposed rule? To ensure that all significant events or situations occurring within the Department of Corrections are completely documented by those present, and that the Board of Correction and all appropriate personnel are informed of the incident in a timely manner. As used in this Administrative Rule, the term "offender" applies to inmates, parolees, and probationers; in addition to residents in a community correction center or reentry center. This proposed rule standardizes reporting requirements, post-transformation throughout the Department of Corrections.
- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes___No **X**
If yes, please provide the federal rule, regulation, and/or statute citation. _____
- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes___No **X**
If yes, what is the effective date of the emergency rule? _____
When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes _____ No **X**

5. Is this a new rule? Yes _____ No **X** If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes _____ No **X** If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes **X** No _____ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. A.C.A 25-43-401
7. What is the purpose of this proposed rule? Why is it necessary?
To ensure that all significant events or situations occurring within the Department of Corrections are completely documented by those present, and that the Board of Correction and all appropriate personnel are informed of the incident in a timely manner. As used in this Administrative Rule, the term "offender" applies to inmates, parolees, and probationers; in addition to residents in a community correction center or reentry center. This proposed rule standardizes reporting requirements, post-transformation throughout the Department of Corrections.
8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). **DOC.Arkansas.gov**
9. Will a public hearing be held on this proposed rule? Yes _____ No **X**
If yes, please complete the following:
Date: _____
Time: _____
Place: _____
10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
June 10, 2021
11. What is the proposed effective date of this proposed rule? (Must provide a date.)
TBD
12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. Attached
13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). Attached
14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. None known

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Corrections

DIVISION Office of the Secretary

PERSON COMPLETING THIS STATEMENT Tameca Williams

TELEPHONE NO. 870-267-6345 FAX NO. 870-267-6373 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 005 Reporting of Incidents

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:

- (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 more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
- (d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

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.

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.