

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



Secretary of State  
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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 \_\_\_\_\_

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Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_




## OFFICE OF THE SECRETARY

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### **Summary of Proposed Rule Governing Extended Juvenile Jurisdiction Transfers and Access to Confidential Juvenile Records**

Act 187 of 2021, now codified at A.C.A. § 9-28-217(a), requires the Board of Corrections to promulgate rules to establish the manner in which juvenile records will be used and procedures for requesting access to these records. This Act provides that the Department of Corrections (DOC) may access confidential records for the purpose of creating risk assessments, treatment plans, classification plans, or supervision plans for each juvenile who has been sentenced pursuant to Extended Juvenile Jurisdiction and comes under the supervision or enters the custody of the DOC as an adult from the Division of Youth Services (DYS).

The proposed rule defines juvenile records and sets out a broad framework for accessing these records. It further establishes a designated custodian in which DYS will provide juvenile records in order to maintain the confidentiality of these sensitive records.

 <div style="text-align: center;"> <b>ADMINISTRATIVE RULE</b>  <b>STATE OF ARKANSAS</b>  <b>BOARD OF CORRECTIONS</b> </div>	<b>Section Number:</b> ADC 806/ACC 9.1	<b>Page Number:</b>
	<b>Board Approval Date:</b> TBD	
	<b>Supersedes:</b> n/a	<b>Dated:</b> TBD
	<b>Reference:</b> A.C.A. § 9-28-217(a)	<b>Effective Date:</b> TBD
<b>SUBJECT:</b> Extended Juvenile Jurisdiction Transfers and Confidential Juvenile Records		

**I. AUTHORITY:**

The authority to promulgate this rule is vested in Act 187 of 2021, Regular Session [A.C.A. § 9-28-217(a)].

**II. PURPOSE:**

To establish criteria for the Department of Corrections (DOC) to access confidential records for the purpose of creating risk assessments, treatment plans, classification plans, or supervision plans for each juvenile who has been sentenced pursuant to Extended Juvenile Jurisdiction (EJJ) and comes under the supervision or enters the custody of the Department of Corrections as an adult from the Division of Youth Services.

**III. APPLICABILITY:**

Employees of the Divisions of Correction and Community Correction.

**IV. DEFINITIONS:**

- A. Custody: immediate charge and physical control of an individual committed by an order of a circuit or juvenile court of the State of Arkansas to the Department of Corrections.
- B. Extended Juvenile Jurisdiction (EJJ) Offender: a juvenile designated to be subject to juvenile disposition and an adult sentence imposed by the court pursuant to A.C.A. § 9-27-303.
- C. Juvenile Records: reports, correspondence, memoranda, case histories, or other material that personally identifies a juvenile, including protected health information, compiled, or received by a juvenile detention facility, a community-based provider for the Division of Youth Services, or the Division of Youth Services (DYS). Records include, but are not limited to, the following:
  1. psychological evaluations,
  2. psychiatric evaluations,
  3. education records,
  4. medication records,
  5. program treatment notes,
  6. disciplinary records,
  7. Prison Rape Elimination Act (PREA) related records, and
  8. conviction records for sexual or violent crimes committed as a juvenile.

**V. POLICY:**

- A. It shall be the policy of the Board of Corrections to safeguard any Juvenile Records from disclosure to unauthorized individuals while developing appropriate risk assessment, treatment, classification, and supervision plans for an offender.
- B. Upon notification by DYS that a juvenile offender who has been sentenced pursuant to EJJ will be transferred into the custody of or come under the supervision of the DOC as an adult, the Department is authorized to utilize Juvenile Records to establish appropriate risk level, or treatment, custody and supervision plans for the offender.

**VI. PROCEDURES:**

- A. DYS shall notify the DOC in writing of the impending transfer of any EJJ Offender being transferred into the custody of or under the supervision of the Department as an adult.
- B. The DOC Chief Counsel shall serve as the Secretary of Corrections' designated contact for notification by DYS.
- C. Upon receipt of written notification of impending transfer, the DOC Chief Counsel will coordinate with DYS to facilitate a transfer of Juvenile Records pertaining to the offender.
- D. The DOC Chief Counsel shall notify the Secretary of Corrections and appropriate Division Director of the impending transfer of an EJJ Offender.
- E. The DOC Chief Counsel or designee shall serve as the custodian of any Juvenile Records received pursuant to this Rule and is responsible for ensuring that Juvenile Records are accessed only by those who require access in order to develop appropriate risk assessment, treatment, classification, or supervision plans for offenders.

**VII. IMPLEMENTATION:**

- A. The Secretary of Corrections may issue directives to implement the guidance contained within this Rule. Directives issued pursuant to this rule must be reviewed by the Board of Corrections prior to issuance.
- B. Implementation of this rule may be delayed by the Secretary of Corrections until any necessary directives are issued and any required programming changes to the electronic Offender Management Information System (eOMIS) have been completed.

## **FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

DEPARTMENT \_\_\_\_\_  
DIVISION \_\_\_\_\_  
PERSON COMPLETING THIS STATEMENT \_\_\_\_\_  
TELEPHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_ EMAIL: \_\_\_\_\_

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

### **SHORT TITLE OF THIS RULE**

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 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?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

Total \_\_\_\_\_

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

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

Total \_\_\_\_\_

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

Next Fiscal Year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

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

Next Fiscal Year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

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.

Will run Fri 4/1, Sat 4/2, and Sun 4/3.

Thank you.

Gregg Sterne, Legal Advertising  
Arkansas Democrat-Gazette

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**From:** "Lindsay Wallace" <[Lindsay.Wallace@arkansas.gov](mailto:Lindsay.Wallace@arkansas.gov)>  
**To:** [legalads@arkansasonline.com](mailto:legalads@arkansasonline.com)  
**Cc:** "Flora Johnson" <[Flora.Johnson@arkansas.gov](mailto:Flora.Johnson@arkansas.gov)>, "Tameca Williams" <[Tameca.Williams@arkansas.gov](mailto:Tameca.Williams@arkansas.gov)>, "Lindsay Wallace" <[Lindsay.Wallace@arkansas.gov](mailto:Lindsay.Wallace@arkansas.gov)>  
**Sent:** Wednesday, March 30, 2022 9:46:05 AM  
**Subject:** Friday, April 1, 2022 LEGAL NOTICE ADVERTISEMENT REQUEST

Good morning! Please place the below advertisement in the legal notice section for **three (3) consecutive days beginning Friday, April 1, 2022.**

Billing invoice with proof of publication should be sent to [Flora.Johnson@arkansas.gov](mailto:Flora.Johnson@arkansas.gov) and copied to me at [Lindsay.Wallace@arkansas.gov](mailto:Lindsay.Wallace@arkansas.gov). Please confirm receipt of this e-mail.

The text of the advertisement is below in red.

The Board of Corrections has reviewed the following proposed Administrative Rule:

**ADC 806/ACC 9.1 AR – Extended Juvenile Jurisdiction Transfers and Confidential Juvenile Records**

Copies of this proposed rule are available for public inspection at the Division of Correction Central Office, 6814 Princeton Pike Road, Pine Bluff, AR 71602. The proposed rule can also be accessed electronically via the public notices tab at <https://doc.arkansas.gov/rule-filings/>. Any written comments regarding the proposed rule should be submitted by close of business **May 6, 2022.**

Written comments regarding the proposed rule can be emailed to [Tameca.Williams@arkansas.gov](mailto:Tameca.Williams@arkansas.gov) or mailed to:

Arkansas Division of Correction  
6814 Princeton Pike Road  
Pine Bluff, AR 71602  
Attn: Division Policy Coordinator

Please let me know if you have any questions. Thanks!

Lindsay

**Lindsay Wallace, J.D.**  
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