

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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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 _____

PUBLIC NOTICE

The Department of Corrections is proposing to promulgate the following Administrative Rule:

Prison Rape Elimination Act (P.R.E.A.)

Copies of this proposal are available for public inspection at DOC Headquarters, located at 1302 Pike Ave. North Little Rock, AR 72114. The proposal can also be accessed electronically at doc.arkansas.gov/rule-filings/. Written comments can be emailed to william.bowman@doc.arkansas.gov or mailed to 1302 Pike Ave. North Little Rock, AR 72114. Comments should be received by July 16, 2024

 <div style="text-align: center;"> ADMINISTRATIVE RULE STATE OF ARKANSAS SECRETARY OF CORRECTIONS </div>	<u>Section Number:</u>	<u>Page Number:</u> <u>1 of 2</u>
	<u>Approval Date:</u>	
	<u>Supersedes:</u>	<u>Dated:</u> <u>N/A</u>
	<u>Reference:</u>	<u>Effective Date:</u>

SUBJECT: Prison Rape Elimination Act (P.R.E.A.)

I. POLICY:

It is the policy of the Arkansas Department of Corrections that “zero tolerance” exists regarding the rape, sexual abuse, or sexual harassment of Inmates, whether by staff or other Inmates.

II. EXPLANATION:

A. It has been a policy and goal of the Arkansas Department of Corrections (DOC) to provide a safe and secure environment to protect the State of Arkansas, our employees, and the Inmates committed to our care and custody. The passage by the United States Congress, in 2003, of the Prison Rape Elimination Act (PREA), reinforces previous policies and goals of the ADC.

B. Pursuant to Arkansas Code Annotated § 12-29-803, it is the policy of the DOC to limit Inspections by male correctional officers in areas where a female Inmate is likely to be in a state of undress.

III. DEFINITIONS. As used in this rule:

A. “Exigent Circumstances” means a set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

B. “Inmate” means a person confined to a prison or community correction center under the control of the DOC.

C. “Inspections” include searches but do not include routine cell checks.

IV. PROCEDURES:

A. Review of Policies. The DOC will annually review policies associated with rape, sexual abuse, or sexual harassment of Inmates. The DOC will revise, adopt, or both new policies and procedures to address the elimination of sexual abuse and sexual harassment of Inmates in its care and custody, as those needs are identified. Areas that will be addressed may include, but are not limited to:

1. Prevention
2. Staff Training/Education
3. Inmate Education
4. Identification/Classification/Housing and Tracking of sexually aggressive Inmates
5. Victim Support
6. Investigation Procedures/Training
7. Prosecution of perpetrators

8. Sanctions

9. Facility reviews and design

10. Data Collection

11. Continuity of counseling/referral upon release

B. Staff Training. Staff training shall be tailored to be gender specific to the facility. All employees shall receive training annually in PREA compliance.

C. Staff Reporting. Reports by male officers conducting Inspections in an area where a female Inmate was in a state of undress shall include:

1. The time and date of the Inspection;

2. Availability or unavailability of female officers; and

3. An explanation of events necessitating the Inspection.

D. General Provisions.

1. Female Inmates shall be permitted to shower, perform bodily functions, and change clothing without male officers viewing their breasts, buttocks, or genitalia except in Exigent Circumstances or when such viewing is incidental to routine cell checks.

2. Male officers shall announce their presence when entering a female housing unit.

3. Unannounced Rounds.

a. Each facility shall implement a practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds on all shifts.

b. Staff are prohibited from alerting other staff of unannounced rounds unless such announcement is related to legitimate operational functions.

E. Retaliation Prohibited. Retaliation by or against any staff, Inmate, or witness involved in a complaint or report of unauthorized viewing of a female Inmate by a male officer is strictly prohibited and may constitute grounds for disciplinary action, up to and including termination.

V. REFERENCES:

Prison Rape Elimination Act

Arkansas Code Annotated § 12-29-803.

From: [Legal Ads](#)
To: [William Bowman II \(DOC\)](#)
Subject: Re: Legal notice advertisement request - BEGIN FRIDAY JUNE 14, 2024
Date: Wednesday, June 12, 2024 3:15:39 PM
Attachments: [image001.png](#)

Will run this revised version, instead of the earlier one, on Fri 6/14, Sat 6/15, and Sun 6/16.

Thank you.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "William Bowman, II (DOC)" <William.Bowman@doc.arkansas.gov>
To: "Legal Ads" <legalads@arkansasonline.com>
Sent: Wednesday, June 12, 2024 2:23:54 PM
Subject: RE: Legal notice advertisement request - BEGIN FRIDAY JUNE 14, 2024

I am terribly sorry. I put the wrong contact info for public comments. I hope it's not too late to correct. I apologize.

The Department of Corrections is proposing to promulgate the following Administrative Rule:

Prison Rape Elimination Act (P.R.E.A.)

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William T. Bowman II (Bo)
Project Manager
DOC Research and Planning
Cell: 501-539-4565
eOMIS After Hours Support: (501) 263-7362

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From: Legal Ads <legalads@arkansasonline.com>
Sent: Wednesday, June 12, 2024 12:32 PM
To: William Bowman II (DOC) <William.Bowman@doc.arkansas.gov>
Subject: Re: Legal notice advertisement request - BEGIN FRIDAY JUNE 14, 2024

Forgot to add: I saw that North Little Rock was spelled "North Litle Rock" twice in the notice. I corrected them for publication.

Thank you.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Legal Ads" <legalads@arkansasonline.com>
To: "William Bowman, II (DOC)" <William.Bowman@doc.arkansas.gov>
Sent: Wednesday, June 12, 2024 12:28:43 PM
Subject: Re: Legal notice advertisement request - BEGIN FRIDAY JUNE 14, 2024

Will run Fri 6/14, Sat 6/15, and Sun 6/16.

Thank you.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "William Bowman, II (DOC)" <William.Bowman@doc.arkansas.gov>
To: "legalads" <legalads@arkansasonline.com>
Sent: Wednesday, June 12, 2024 11:34:02 AM
Subject: Legal notice advertisement request - BEGIN FRIDAY JUNE 14, 2024

Good morning! Please place the below advertisement in the legal notice section for three (3) consecutive days beginning Friday, June 14, 2024.

Billing invoice with proof of publication should be sent to William.bowman@arkansas.gov . Please confirm receipt of the email.

The text of the advertisement is below in red:

PUBLIC NOTICE

The Department of Corrections is proposing to promulgate the following Administrative Rule:
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Copies of this proposal are available for public inspection at DOC Headquarters, located at 1302 Pike Ave. North Little Rock, AR 72114. The proposal can also be accessed electronically at doc.arkansas.gov/rule-filings/. Written comments can be emailed to Micaela.Whitelow@arkansas.gov or mailed to 1302 Pike Ave. North Little Rock, AR 72114. Comments should be received by July 16, 2024



William T. Bowman II (Bo)
Project Manager
DOC Research and Planning
Cell: 501-539-4565
eOMIS After Hours Support: (501) 263-7362

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FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT Department of Corrections

BOARD/COMMISSION Office of the Secretary

PERSON COMPLETING THIS STATEMENT William Bowman

TELEPHONE NO. (501) 682-9513 **EMAIL** William.bowman@doc.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE Prison Rape Elimination Act (P.R.E.A)

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 no, please explain:

(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 reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

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

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

Total _____

Next Fiscal Year

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

Total _____

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

Current Fiscal Year

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

Total _____

Next Fiscal Year

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

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ 0.00

Next Fiscal Year

\$ 0.00

6. What is the total estimated cost by fiscal year to a state, county, or 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

\$ 0.00

Next Fiscal Year

\$ 0.00

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.