

ARKANSAS REGISTER

TRANSMITTAL SHEET

Secretary of State
State Capitol, Rm. 026
Little Rock, Arkansas 72201-1094

BY
MARK MASTIN
SECRETARY OF STATE
STATE OF ARKANSAS

14 MAY -7 AM 10:49

AR REGISTER DIV.

FILED

319

For Office Use Only: Effective Date _____ Code Number _____

Name of Agency Board of Corrections

Department Department of Correction

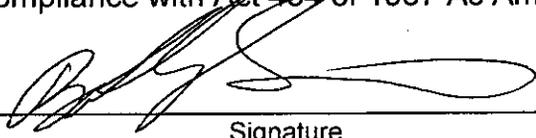
Contact Person Tiffanye Compton (870-267-6335)

Statutory Authority for Promulgating Rules §12-27-105

- | | | | |
|--------------------------|--------------------------------|--|---------------------------|
| <input type="checkbox"/> | Intended Effective Date | AR 017 Critical Incident Review | Date... 05-09-2014 |
| <input type="checkbox"/> | Emergency | Legal Notice Published..... | 01-30-2014 |
| <input type="checkbox"/> | 10 Days After Filing | Final Date for Public Comment..... | 03-01-2014 |
| <input type="checkbox"/> | Other | Reviewed by Legislative Council..... | 04-09-2014 |
| | | Adopted by State Agency..... | 04-29-2014 |

CERTIFICATION OF AUTHORIZED OFFICER

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



Signature

870-267-6345

Phone Number

Policy Coordinator

Title

05/06/2014

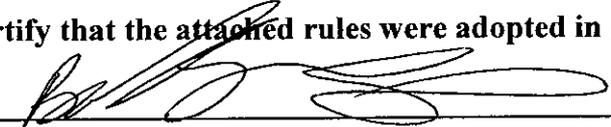
Date

ARKANSAS STATE LIBRARY



Agency Certification Form For Depositing Final Rules and Regulations At the Arkansas State Library

Documents Services • Arkansas State Library
One Capitol Mall • Little Rock, AR 72201-1094
501-682-2326 phone; 501-682-1532 FAX

For Office Use Only		
Effective Date:		Classification Number:
Name of Agency: Board of Corrections – Department of Correction		
Contact Person: Tiffanye Compton		Telephone: 870-267-6335
Statutory Authority for Promulgating Rules:		A.C.A. § 12-27-105
Title of Rule: AR 017 Critical Incident Review		
Rule Status	Effective Date Status	Effective Date
New Rule/Regulation	<input type="checkbox"/> Emergency	05/09/2014
<input checked="" type="checkbox"/> Amended Rule/Regulation	X 10 Days after filing	
<input type="checkbox"/> Repealed Rule/Regulation	<input type="checkbox"/> Other	
<input type="checkbox"/> Order	<input checked="" type="checkbox"/> Revised	04/29/2014
<input type="checkbox"/> Emergency Rule/Regulation	Adopted by State Agency	
<input type="checkbox"/> Rule above is proposed and will be replaced by final version <input checked="" type="checkbox"/> Financial and/or Fiscal Impact Statement Attached		
Certification of Authorized Officer		
I hereby certify that the attached rules were adopted in compliance with Act 434 of 1967 as amended.		
Signature: 		Date: 5-6-14
Title: Policy Coordinator		

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Arkansas Department of Ccorrection
DIVISION Research and Planning
DIVISION DIRECTOR Ray Hobbs
CONTACT PERSON Bobby Smith
ADDRESS 6814 Princeton Pike Rd., Pine Bluff, Arkansas
PHONE NO. 870-267-6345 FAX NO. 870-267-6258 E-MAIL bobby.g.smith@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Bobby Smith
PRESENTER E-MAIL bobby.g.smith@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:

Donna K. Davis
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 017
 - 2. What is the subject of the proposed rule? Critical Incident Review
 - 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
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
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

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

Does this repeal an existing rule? Yes No

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 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. _____

7. What is the purpose of this proposed rule? Why is it necessary? AR Critical Incident Review is being revised to reflect actual procedures and practices and to make it an instrument of and improve the ADC Emergency Preparedness Plan

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). [mailto:jon.davidson@sos.arkansas.gov] Secretary of State Office

9. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

03/01/2014

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

04/01/2014

12. Do you expect this rule to be controversial? Yes No

If yes, please explain. _____

13. 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.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Correction
DIVISION Research and Planning
PERSON COMPLETING THIS STATEMENT Bobby Smith
TELEPHONE NO. 870-267-6345 **FAX NO.** 870-267-6258 **EMAIL:** bobby.g.smith@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 017 Critical Incident Review

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

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

Next Fiscal Year

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) _____

Total _____

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, 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.

 <p style="text-align: center;">ADMINISTRATIVE REGULATIONS</p> <p style="text-align: center;">STATE OF ARKANSAS</p> <p style="text-align: center;">BOARD OF CORRECTIONS</p>	Section Number:	Page Number:
	017	1 of 2
	Board Approval Date:	
	04/29/2014	
	Supersedes:	Dated:
	017	10/07/1996
	Reference:	Effective Date:
		05/09/2014
SUBJECT: Critical Incident Review		

I. AUTHORITY:

The Board of Correction is vested with the authority to promulgate this administrative regulation by Ark. Code Ann. ss 12-27-105 (Michie Supp. 1995).

II. POLICY:

To assess the adequacy of the Emergency Preparedness Plan and its implementation in situations where unexpected threat to, or loss of, life has occurred within the Arkansas Department of Correction, Critical Incident Reviews may be ordered by the Director.

III. DEFINITIONS:

Critical Incident: Usually a critical incident will meet the following criteria:

- A. An employee, inmate, volunteer, or visitor has died or sustained serious injury
- B. Occurred on property of the Arkansas Department of Correction
- C. Occurred while being transported in a vehicle operated by ADC staff or inmate
- D. The event is not associated with known criminal actions or rule violations by staff
- E. Questions exist regarding response to the event or prevention of similar events.

However, any incident to which the Director wishes to apply this procedure will be considered a critical incident.

Critical Incident Review Committee: A committee of ADC staff appointed by the Director drawing normally from the following areas:

- A. Emergency Preparedness Coordinator
- B. Internal Affairs
- C. Warden/Center Supervisor or Assistant Warden
- D. Medical Services

- E. Mental Health Services
- F. Other staff as deemed appropriate by the Director.

IV. **PROCEDURE:**

- A. The Director shall use his/her discretion in ordering a Critical Incident Review. The Director may review requests for Critical Incident Reviews originating from Administrators, Wardens and Center Supervisors and forwarded through the appropriate Deputy/Assistant Directors.
- B.
- C. If the Director determines that the facts warrant a Critical Incident Review, the Director will select and notify the individuals to be on the Critical Incident Review Committee. The Director will also advise the Management Team that a Critical Incident has been authorized.
- D. The Critical Incident Review Committee, acting under the authority of the Director, will conduct such interviews and gather such documentation as necessary to determine the facts related to the incident.
- E. Should the Critical Incident Review Committee have good cause to suspect that criminal activity has occurred, the Administrator of Internal Affairs will be immediately notified, and the Director will make a determination as to whether to continue the Critical Incident Review or refer the matter to the State Police or Internal Affairs for Investigation.
- F. The Critical Incident Review Committee will usually finish its work within 45 days, and the Chair will cause a report to be written which outlines the facts and recommendations. Should additional time be needed, the Chair will notify the Director and provide an expected completion date.
- G. Copies of all records and tapes of interviews from which the facts and recommendations have been drawn will be retained by Internal Affairs. A copy of the summary and recommendations will be forwarded to the Deputy/Assistant Director who originally requested the Critical Incident Review and the Emergency Preparedness Coordinator. The Deputy/Assistant Director and the Emergency Preparedness Coordinator will work with staff to develop an action plan and make any changes warranted to the Emergency Preparedness Plan.
- H. The summary, recommendations and action plan will be made known to the Management Team for review and to determine the feasibility of implementation. The Director will set a review date to ensure that recommendations approved by the Management Team are implemented in the designated time frame.
- I. Portions of this review may be considered performance evaluation records when describing individual employee actions.