

ARKANSAS SENTENCING COMMISSION

Enabling Laws

Act 136 of 2012
A.C.A. §16-90-801 - 16-90-804

History and Organization

“The purpose of the Arkansas Sentencing Commission is to establish, maintain and revise sentencing guidelines and to monitor and assess the effect of legislation and policy on correctional resources, and to educate the criminal justice community and the public regarding sentencing laws and policy.”

As defined in Acts 532 and 550 of 1993, the Arkansas Sentencing Commission’s powers and duties are:

- To adopt the initial sentencing standards grid and seriousness reference table within the new sentencing structure and to make any necessary revisions thereto;
- To establish transfer eligibility for the offenses at the seriousness levels with the more serious offenders serving one-half of their sentences and the less serious serving one-third;
- To monitor compliance with standards, assess impact on correctional resources and determine if the state sentencing policy is furthered;
- To make legislative recommendations on revisions to the target offense group, classifications of crimes, and appropriate changes to sentencing laws, policies and/or practices;
- “Strategic planning” with the Board of Correction to further the goals of equitable sentencing and rational use of correctional resources;
- To collect data relative to sentencing in coordination with the Administrative Office of the Courts, the Arkansas Crime Information Center, the circuit clerks of the State and the Departments of Correction and Community Correction; and
- To develop a research and analysis system to determine the feasibility, impact on resources and budget consequences of proposed and existing legislation affecting sentence length.

Act 570 of 2011 amended A.C.A. § 16-90-802 to include the following:

- Produce an annual report to include compliance with the sentencing guidelines, including county-by-county and statewide data, sentence to the Arkansas Department of Correction (ADC) and the Department of Community Correction (DCC), average sentence length by offense type and seriousness level, percentage of upward departures; average number of months above the recommended sentence, and a comparison with data from prior years beginning with 2012;

- Prepare and conduct annual continuing legal education seminars regarding the sentencing guidelines to be presented to judges, prosecuting attorneys and their deputies, and public defenders and their deputies; and
- Collaborate with the Administrative Office of the Courts to produce and implement an integrated sentencing and departure form that shall include demographic information including the race and ethnicity of the offender and victim(s), the placement decision, sentence length, any departure from the sentencing guidelines on placement and sentence length, the number of months above or below the presumptive sentence, justification for departure and signature of the judge and prosecuting attorney.

The Commission has adopted the initial sentencing grid and the seriousness reference table; continues to establish transfer eligibility for all offenses created or modified by the General Assembly after each legislative session; reviews and revises the guidelines as deemed necessary. The Commission also continues to work with the Departments of Correction and Community Correction in developing a continuum of sanctions which makes the most efficient use of the correctional resources of the State.

The Commission works with the Departments of Correction and Community Correction in producing projections on the inmate, parole and probation populations of the State. Commission staff monitors these projections for accuracy on a monthly basis. The Commission also does extensive analysis and tracking of sentencing trends. The population projections and sentencing trends are used to produce impact assessments of proposed legislation for the General Assembly during each legislative session.

The Sentencing Commission provides daily research assistance to judges, defense attorneys and prosecutors throughout the State. The Commission provides timely updates on new developments in criminal law to all criminal justice constituents.

As mandated by Act 570, the Sentencing Commission, in collaboration with the Administrative Office of the Courts and other criminal justice agencies, developed an integrated Sentencing Order which the circuit courts began using on January 2, 2012. The Commission has also developed a database of the Sentencing Order to collect data for the annual report. Commission staff has conducted training seminars on the use of the sentencing guidelines and the Sentencing Order. This training is certified by the Arkansas Continuing Legal Education Board.

The Commission also provides other Continuing Legal Education training for attorneys practicing in the criminal law field. This training emphasizes all segments of the criminal justice system and the correctional resources of the State. These training sessions includes segments on programs available at the ADC, understanding how to compute time on sentences and transfer eligibility, Parole Board procedures, and a tour of the local DCC facility with an emphasis on the therapeutic community treatment model available for offenders with substance abuse behavior. Increased knowledge and understanding of available alternative sanctions helps divert nonviolent offenders from the more costly prison beds. This training is certified by the Arkansas Continuing Legal Education Board.

The Commission is composed of nine voting members: three circuit judges, two prosecuting attorneys, two defense attorneys, and two members of the general public. The Commission currently has five full time staff positions. The Executive Director is responsible for compiling the work of the Commission and drafting suggested legislation. The Assistant Director and Legal Services Specialist are responsible for data

entry, data transference and analysis, impact studies and research on various sentencing practices. The Assistant Director also serves as the Agency Fiscal Officer. The Legal Services Specialist and the Legal Support Specialist are responsible for educational efforts, legal research, data collection from judicial districts throughout the State, and other special projects. The Administrative Specialist III provides administrative, secretarial, and accounting support to the staff and commission.



Agency Commentary

The Arkansas Sentencing Commission has submitted a personnel request for reclassifying two current positions to Attorney positions. The primary duties and responsibilities of the agency require legal skills and knowledge. The two persons currently holding these positions are, in fact, licensed attorneys. The previous six people who held these positions were attorneys who left after short periods for higher paying positions. However, with the passage of the Public Safety Improvement Act of 2011 (PSIA), training is much more extensive and quick turnover is expensive and a deterrent to our office. The agency needs attorneys who have had time to establish relationships with the judges, prosecutors, and public defenders across the State. The PSIA gave the Sentencing Commission new duties and responsibilities, all of which also require legal skills. This request is projected to result in a \$29,833 increase in salaries and a \$6,548 increase in personal services matching for each year of the biennium.

The Arkansas Sentencing Commission has submitted one Non-Personnel Change Level request for the up-coming biennium. Change Level C01 includes a \$54,500 increase for both fiscal year 2014 and 2015. The increases over the Base Level are for an increase in printing costs

and professional service contracts. The printing costs cover publishing the sentencing guidelines bench book and training materials due to increased training mandated by the PSIA. The sentencing guidelines bench book is furnished to judges, prosecuting attorneys and defense attorneys throughout the state. The increase in professional service contracts is due to costs incurred in contracting expert services needed to compile and process sentencing data used to produce the annual report regarding compliance with the sentencing guidelines also mandated by the PSIA.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
 AUDIT OF :
 ARKANSAS SENTENCING COMMISSION
 FOR THE YEAR ENDED JUNE 30, 2011

Findings	Recommendations
None	None

State Contracts Over \$25,000 Awarded To Minority Owned Businesses Fiscal Year 2012

None

Employment Summary

	Male	Female	Total	%
White Employees	0	5	5	100 %
Black Employees	0	0	0	0 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			0	0 %
Total Employees			5	100 %

Publications

A.C.A. 25-1-204

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution
		Governor	General Assembly		
Arkansas Sentencing Seminar Manual	N/A	N	N	300	Used in continuing legal education of attorneys and judges on correctional resources of the State.
Commission Annual Report	ACA §16-90-802(d)	N	Y	100	Legislative mandate and for information on commission activities and findings.
Sentencing Standards Grid, Offenses Seriousness Rankings and Related Material (Bench Book)	ACA §16-90-802 et seq	N	N	1,400	Policy manual for sentencing standards used by criminal justice practitioners in criminal proceedings (also available via the Internet).

Agency Position Usage Report

FY2010 - 2011						FY2011 - 2012						FY2012 - 2013					
Authorized in Act	Budgeted			Unbudgeted Total	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted Total	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted Total	% of Authorized Unused
	Filled	Unfilled	Total				Filled	Unfilled	Total				Filled	Unfilled	Total		
5	5	0	5	0	0.00 %	5	5	0	5	0	0.00 %	5	5	0	5	0	0.00 %

Analysis of Budget Request

Appropriation: 806 - Sentencing Commission State Operations

Funding Sources: HUA - Miscellaneous Agencies Fund

The Arkansas Sentencing Commission was established by Act 532 & 550 of 1993 as codified at Arkansas Code 16-90-801 - 16-90-804 for the purpose of instituting sentencing standards to ensure that sanctions imposed following conviction are proportional to the seriousness of the offense of conviction and the extent of the offender's criminal history. The Commission has developed the sentencing grid, the seriousness reference table and established transfer eligibility for all offenses. The Commission provides impact assessments of proposed legislation for the Governor and General Assembly through a professional service contract with the Institute on Crime, Justice and Correction. This contract also has provided training to the staff of the Sentencing Commission and the Department of Correction in the use of a software program that is utilized in data analysis of criminal justice laws, policies and procedures. The Commission consists of nine (9) Commissioners that are appointed by the Governor for a five-year term.

This is the operating appropriation of the Commission. It is funded entirely by general revenue.

Base Level Regular Salaries and Personal Services Matching includes Career Service payments for eligible employees. Personal Services Matching also includes a \$20 increase in the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$410 per month. Base Level salaries and matching do not include appropriation for a Cost of Living Adjustment or Merit Pay Increases. The Base Level request for Regular Salaries includes board member stipend payments.

For the 2013-15 Biennium, the Board is requesting the following change levels:

- Salaries and Personal Services Matching of \$36,381 (\$29,833 salaries and \$6,548 matching) in appropriation and general revenue funding for both FY14 and FY15 to reclassify two current positions to Attorney positions.
- \$3,500 in appropriation and general revenue funding for both years of the biennium in Operating Expenses commitment item due to increased printing costs.
- \$51,000 in appropriation and general revenue funding for both years of the biennium in Professional Fees commitment item for increased professional service contracts.

The Executive Recommendation provides for the Agency Request with the exception of one of the position requests. The Legal Support Specialist is recommended to be reclassified to a Legal Services Specialist.

Appropriation Summary

Appropriation: 806 - Sentencing Commission State Operations

Funding Sources: HUA - Miscellaneous Agencies Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
		2011-2012 Actual	2012-2013 Budget	2012-2013 Authorized	2013-2014			2014-2015		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	237,146	222,434	229,702	227,614	257,447	244,319	227,614	257,447	244,319
#Positions		5	5	5	5	5	5	5	5	5
Personal Services Matching	5010003	73,488	72,608	69,280	74,415	80,963	78,082	74,415	80,963	78,082
Operating Expenses	5020002	62,620	60,006	64,748	60,006	63,506	63,506	60,006	63,506	63,506
Conference & Travel Expenses	5050009	4,282	4,550	4,550	4,550	4,550	4,550	4,550	4,550	4,550
Professional Fees	5060010	19,000	19,000	19,000	19,000	70,000	70,000	19,000	70,000	70,000
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	0	0	0	0	0	0	0	0	0
Total		396,536	378,598	387,280	385,585	476,466	460,457	385,585	476,466	460,457
Funding Sources										
General Revenue	4000010	396,536	378,598		385,585	476,466	460,457	385,585	476,466	460,457
Total Funding		396,536	378,598		385,585	476,466	460,457	385,585	476,466	460,457
Excess Appropriation/(Funding)		0	0		0	0	0	0	0	0
Grand Total		396,536	378,598		385,585	476,466	460,457	385,585	476,466	460,457

FY13 Budget amount in Personal Services Matching exceeds the authorized amount due to matching rate adjustments during the 2011-2013 Biennium.

Change Level by Appropriation

Appropriation: 806 - Sentencing Commission State Operations
Funding Sources: HUA - Miscellaneous Agencies Fund

Agency Request

Change Level		2013-2014	Pos	Cumulative	% of BL	2014-2015	Pos	Cumulative	% of BL
BL	Base Level	385,585	5	385,585	100.0	385,585	5	385,585	100.0
C01	Existing Program	54,500	0	440,085	114.1	54,500	0	440,085	114.1
C10	Reclass	36,381	0	476,466	123.6	36,381	0	476,466	123.6

Executive Recommendation

Change Level		2013-2014	Pos	Cumulative	% of BL	2014-2015	Pos	Cumulative	% of BL
BL	Base Level	385,585	5	385,585	100.0	385,585	5	385,585	100.0
C01	Existing Program	54,500	0	440,085	114.1	54,500	0	440,085	114.1
C10	Reclass	20,372	0	460,457	119.4	20,372	0	460,457	119.4

Justification

C01	An increase in operating expenses is requested due to an increase in printing costs and professional service contracts. The printing costs cover publishing the sentencing guidelines benchbook which is furnished to judges, prosecuting attorneys and defense attorneys throughout the state. The printing costs also include training materials due to increased training mandated by the Public Safety Improvement Act of 2011(PSIA). The increase in professional service contracts is due to costs incurred in contracting expert services needed to compile and process sentencing data used to produce the annual report regarding compliance with the sentencing guidelines also mandated by the PSIA. In previous years the agency used data from the Administrative Office of the Courts and the Department of Correction but this data lacks certain new information required by PSIA. Therefore the agency will contract the development of an Access-based data system to collect the necessary information from the newly developed Sentencing order. This amount also includes the increased costs for the population projections, conducting the analysis on the court data, producing the report, and minor updates on the information database. Additional one time funding was given to the Department of Community Correction in the previous biennium to cover these additional mandates and the responsibility now shifts to the agency.
C10	Agency requests 2 positions (legal services specialist and legal support specialist) be reclassified to attorney positions.