As Engrossed: 1/29/91

1	
2	78th General Assembly A BillACT 163 OF 199
3	Regular Session, 1991 SENATE BILL 20
4	By: Senator Beebe
5	
6	
7	For An Act To Be Entitled
8	"AN ACT TO AMEND ARKANSAS CODE 20-78-202 TO REDEFINE THE
9	TERM 'CHILD CARE FACILITY'; TO AMEND ARKANSAS CODE 28-65-
10	207 PERTAINING TO THE APPOINTMENT OF GUARDIANS; AND FOR
11	OTHER PURPOSES."
12	
13	BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
14	
15	SECTION 1. Arkansas Code 20-78-202(4) is hereby amended to read as
16	follows: "(4) 'Child care facility' means any facility which provides care,
17	training, education, custody, or supervision for any unrelated minor child
18	whether or not the facility is operated for profit, and whether or not the
19	facility makes a charge for the services offered by it. For the purposes of
20	this Act 'related minor child' means a minor child related by blood, marriage,
21	or adoption to the owner or operator of the facility, or a minor child who is
22	a ward of the owner or operator of the facility pursuant to a guardianship
23	order issued by an Arkansas Court of competent jurisdiction.
24	(A) This definition includes, but is not limited to, a nursery, a
25	nursery school, kindergarten, a day care center, or a family day care home,
26	foster home, group home, and custodial institution.
27	(B) In any case where a facility or the owner or operator thereof
28	is appointed guardian of a total of ten (10) or more minors, it shall be
29	presumed that the facility, owner or operator is engaged in child care and
3 0	shall be subject to child care facility licensure.
31	(C) However, this definition does not include:
32	(i) Special schools or classes operated solely for
33	religious instruction;
34	(ii) Facilities operated in connection with a church,
	shopping center, business, or establishment where children are cared for
2	during short poriods of time while parents or parents in shares of the

- 1 children are attending church services, shopping, or engaging in other
- 2 activities during the periods;
- 3 (iii) Any educational facility, whether private or public,
- 4 which operates solely for educational purposes in grades one or above and does
- 5 not provide any custodial care;
- 6 (iv) Kindergartens operated as a part of the public schools
- 7 of this state;
- 8 (v) Any situation, arrangement, or agreement by which one
- 9 (1) or more persons care for less than six children from more than one (1)
- 10 family at the same time;
- 11 (vi) Any educational facility, whether public or private,
- 12 which operates a kindergarten program in conjunction with grades one and above
- 13 and provides short-term custodial care prior to or following classes for those
- 14 students; and
- 15 (vii) Any recreational facility or program, whether public
- 16 or private, which operates solely as a place of recreation for minor children.
- 17 For purposes of this act, a recreational facility or program is defined as a
- 18 facility or program which operates with children arriving and leaving
- 19 voluntarily for scheduled classes, activities, practice, games and meetings."

20

- 21 SECTION 2. Arkansas Code 28-65-207(b) is hereby amended to read as
- 22 follows: "(b) Except as provided in subsection (a) of this section, before
- 23 the court shall appoint a guardian, other than a temporary guardian, notice of
- 24 the hearing of the application for the appointment of the guardian shall be
- 25 served upon the following:

- (1) The alleged
- 26 incapacitated person if over fourteen (14) years of age, and the alleged
- 27 incapacitated person shall be notified of his rights under 28-65-213. This
- 28 notice shall be served with the notice of hearing;
- 29 (2) The parents of the alleged incapacitated person, if the alleged
- 30 incapacitated person is a minor;
- 31 (3) The spouse, if any, of the alleged incapacitated person;
- 32 (4) (A) Any other person who is the guardian of the person or of the
- 33 estate of the alleged incapacitated person, or any other person who has the
- 34 care and custody of the alleged incapacitated person, and the director of any
- 35 agency from which the respondent is receiving services;

SB 20

1	(B) The Department of Human Services where the petition seeks
2	appointment of a guardian who, at the time the petition is filed, serves as
3	guardian of five (5) or more minor wards;
4	(5) If there is neither a known parent nor known spouse, at least one of
5	the nearest competent relatives by blood or marriage of the alleged
6	incapacitated person; and
7	(6) If directed by the court:
8	(A) Any department, bureau, agency, or political subdivision of the
9	United States or of this state which makes or awards compensation, pension,
10	insurance, or other allowance for the benefit of the ward or his estate;
11	(B) Any department, bureau, agency, or political subdivision of the
12	United States or of this state or any charitable organization, which may be
13	charged with the supervision, control, or custody of the incompetent; or
14	(C) Any other person designated by the court."
15	
16	SECTION 3. All provisions of this act of a general and permanent nature
17	are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
18	Revision Commission shall incorporate the same in the Code.
19	
20	SECTION 4. If any provision of this act or the application thereof to
21	any person or circumstance is held invalid, such invalidity shall not affect
22	other provisions or applications of the act which can be given effect without
23	the invalid provision or application, and to this end the provisions of this
24	act are declared to be severable.
25	
26	SECTION 5. All laws and parts of laws in conflict with this act are
27	hereby repealed.
28	
29	/s/Beebe
30	
31	APPROVED: 2-18-91