

As Engrossed: 3/12/93

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

HOUSE BILL 1933

4 **By: Representative McJunkin and Stewart**

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7

For An Act To Be Entitled

8 "AN ACT TO ESTABLISH AN INDIVIDUAL AND FAMILY SUPPORT
9 PROGRAM FOR SERVING INDIVIDUALS WITH MENTAL DISABILITIES,
10 PHYSICAL DISABILITIES, CHRONIC ILLNESSES, OR OTHER SPECIAL
11 NEEDS AND THEIR FAMILIES; TO ESTABLISH A STATE FAMILY AND
12 INDIVIDUAL SUPPORT COORDINATING COUNCIL; TO DEVELOP A
13 STATE PLAN FOR SERVING SUCH INDIVIDUALS AND THEIR
14 FAMILIES; AND FOR OTHER PURPOSES."

15

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Subtitle

17 "TO ESTABLISH A SUPPORT PROGRAM FOR INDIVIDUALS WITH
18 MENTAL AND PHYSICAL DISABILITIES, CHRONIC ILLNESSES OR
19 OTHER SPECIAL NEEDS."

20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22

23 SECTION 1. Intent.

24 It is the intent of the General Assembly that individuals with mental
25 disabilities (MD), physical disabilities (PD), chronic illnesses (CI), or
26 other special needs (OSN) and their families be afforded supports that
27 emphasize community living and enable them to enjoy typical lifestyles. One
28 way to do this is to recognize that families are the greatest resource
29 available to individuals with MD, PD, CI, or OSN and are the major providers
30 of support and care for members requiring long term care because of
31 disability, chronic illness or other special need. It is in the interest of
32 the state of Arkansas to support families in this role as primary care-givers
33 and to empower adult individuals with MD, PD, CI, or OSN to maximize self-
34 direction, self-sufficiency, independence, and inclusion into society. The
35 General Assembly finds that supporting families in their effort to care for

1 their family members at home and supporting adult individuals in their efforts
2 to attain self-direction, self-sufficiency, and independence are more
3 efficient, cost-effective and in line with the national move toward
4 productivity and integration into the community for all persons with MD, PD,
5 CI, or OSN.

6

7 SECTION 2. Program Guidelines.

8 (a) In recognition of the importance of families and the dignity of all
9 individuals, the General Assembly states that the following principles should
10 be used as guidelines in developing programs that support families and
11 individuals with MD, PD, CI, or OSN:

12 (1) Families and individuals with MD, PD, CI, or OSN are best
13 able to determine their own needs and should be empowered to make decisions
14 concerning necessary, desirable, and appropriate services.

15 (2) All children, regardless of the nature or severity of their
16 disability, belong with and do best with families and have a right to a safe,
17 permanent, stable and nurturing family relationship. Adult or elderly
18 individuals with specialized care needs may choose to live at home with family
19 members who provide care for them. Accordingly, families should receive the
20 supports they deem necessary and appropriate to care for their family member
21 at home and in their home communities.

22 (3) Family Supports shall focus on the needs of the entire family
23 and be responsive to the individual. Individual supports shall be respectful
24 of individual dignity, personal responsibility, self-determination, pursuit of
25 meaningful careers, contributions, relationships and homes, based on informed
26 choice and preference, of individuals with MD, PD, CI, or OSN.

27 (4) Family and Individual Supports shall be available before
28 families or individuals are in crisis.

29 (5) Family and Individual Supports must be sensitive to the
30 unique needs, strengths and multi-cultural values of the individual and the
31 family.

32 (6) Family and Individual Supports shall not be confined to a
33 single program or set of services but shall be a philosophy that permeates all
34 programs and services.

35 (7) Family and Individual Supports must be flexible enough to

1 accommodate the unique needs of individuals and families as they evolve over
2 time with a continuing focus on the rights and interests of the individual.

3 (8) Family and Individual Supports shall be implemented in a
4 manner that increases the status and enhances the dignity and value of
5 individuals and families served.

6 (9) Family and Individual Supports shall make maximum use of
7 existing social networks and natural sources of support and should encourage
8 community inclusion.

9 (10) Family and Individual Supports shall blend resources from
10 existing programs and coordinate services and supports among agencies charged
11 with serving individuals with MD, PD, CI, or OSN and their families. All
12 sources of funding and services, public and private, as well as volunteer
13 services, shall be coordinated in order to meet the needs of individuals and
14 their families.

15 (b) In addition, the General Assembly recognizes that the Division of
16 Developmental Disabilities Services of the Department of Human Services has
17 for several years developed and maintained a family support program that
18 provides support services to some families with members who have developmental
19 disabilities. The success of this program demonstrates the need and value of
20 family support services. More families in the state should be able to receive
21 appropriate services and assistance needed to stabilize the family unit.

22

23 SECTION 3. Definitions.

24 For the purpose of this act:

25 (1) "District Council" means a District Individual and Family Support
26 Council created by this act.

27 (2) "Family" means the unit that consists of:

28 (a) a member with MD, PD, CI, or OSN and one (1) or more
29 biological, adoptive, or foster parents; or

30 (b) one (1) or more persons to whom legal custody has been given
31 and in whose home the member resides or intends to reside.

32 (3) "Family and Individual Support Services" means services authorized
33 by this act and shall include, but are not limited to:

34 (a) independent service coordination;

35 (b) specialized diagnosis and evaluation;

- 1 (c) medical and dental care not otherwise covered;
- 2 (d) respite care for families;
- 3 (e) personal assistance services;
- 4 (f) homemaker services;
- 5 (g) home health services;
- 6 (h) therapeutic and nursing services;
- 7 (i) home and vehicle modification/repairs;
- 8 (j) equipment and supplies;
- 9 (k) transportation;
- 10 (l) recreation and social services;
- 11 (m) specialized nutrition and clothing;
- 12 (n) counseling services;
- 13 (o) parent education services;
- 14 (p) training services;
- 15 (q) communication services;
- 16 (r) crisis intervention services;
- 17 (s) day care;
- 18 (t) utility costs;
- 19 (u) self-advocacy training;
- 20 (v) cash subsidy;
- 21 (w) companion or roommate services;
- 22 (x) estate and transition planning;
- 23 (y) other services, upon request.

24 (4) "Individual and Family Support Plan" means a written plan for the
25 coordination and evaluation of individual and/or family support services
26 driven by the preferences, choices and desires of the individual/family and
27 includes, but is not limited to, specific goals, methods, and a projected
28 timetable for attaining service goals.

29 (5) "Individual with Disabilities" means an individual with a severe,
30 chronic disability, illness or other special need which:

31 (a) Is attributable to a mental impairment, physical impairment,
32 chronic health condition or a combination of mental and physical impairments;

33 (b) Results in substantial functional limitations in two (2) or
34 more of the following areas of major life activities:

35 (1) self-care;

- 1 (2) receptive and expressive language;
- 2 (3) learning;
- 3 (4) mobility;
- 4 (5) self-direction;
- 5 (6) capacity for independent living;
- 6 (7) economic self-sufficiency; and

7 (c) When applied to infants and young children, means individuals
8 from birth to age five (5), inclusive, who have substantial developmental
9 delay or specific congenital or acquired conditions with a high probability of
10 resulting in disabilities.

11 (6) "State Council" means the State Individual and Family Support
12 Coordinating Council created by this act.

13 (7) "Service Coordination" means individualized planning, with the
14 individual/family in control of decision-making, that is facilitated by a
15 services coordinator and that includes information, coordination among
16 agencies and organizations or the provision of services/supports,
17 identification of natural and generic resources, and advocacy for the
18 individual/family.

19 (8) "Service district" means an Individual and Family Support Service
20 District.

21

22 SECTION 4. Individual and Family Support Program.

23 (a) The Individual and Family Support Program shall be administered by
24 the Department of Human Services through the collaborative mechanism of the
25 State Family Support Coordinating Council.

26 (b) The Director of the Department of Human Services shall divide the
27 state into eight (8) Individual and Family Support Service districts.

28

29 SECTION 5. State Individual and Family Support Coordinating Council.

30 (a) There is created the State Individual and Family Support
31 Coordinating Council. It shall be the function of the state council to
32 develop a plan for the statewide implementation of the Individual and Family
33 Support Program.

34 (b)(1) The state council shall be composed of twenty-five (25) members
35 as follows:

1 (A) Eight (8) members shall be individuals with
2 disabilities or their legal representatives, with one (1) person being
3 selected from each of the service districts. The initial members shall be
4 appointed by the Governor. Subsequent members shall be elected by the District
5 Individual and Family Support Council from its membership;

6 (B) Eight (8) members shall be family members of children
7 with disabilities with one (1) person selected from each of the service
8 districts. The initial members shall be appointed by the Governor. Subsequent
9 members shall be elected by the District Individual and Family Support Council
10 from its membership; and

11 (C) One (1) representative from each of the following
12 Divisions: Developmental Disabilities Services, Mental Health Services,
13 Children and Family Services, Economic and Medical Services, Aging and Adult
14 Services, Rehabilitation Services, Program Operation, Services for the Blind,
15 and Alcohol and Drug Abuse Prevention.

16 (2) In addition, the following ex-officio members shall be
17 appointed to the state council:

18 (A) one (1) member from the Department of Education,
19 Special Education, to be appointed by the Director of the Department of
20 Education.

21 (B) one (1) member from the Department of Health, to be
22 appointed by the Director of the Department of Health.

23 (C) one (1) member of the House of Representatives, to be
24 appointed by the Speaker of the House.

25 (D) one (1) member of the Senate, to be appointed by the
26 President Pro Tempore of the Senate.

27 (3) Care shall be taken to assure that members selected from the
28 service districts reflect diverse cultural and racial backgrounds and are
29 representative of a variety of socio-economic conditions as well.

30 (c) Members of the state council shall be appointed for staggered terms
31 of two (2) years.

32 (d) The state council shall meet quarterly, or as often as necessary,
33 to perform its functions.

34 (e) All members of the state council shall receive six (6) hours of
35 training yearly provided by individuals or groups with knowledge and

1 experience of family supports, its philosophy and practices, throughout the
2 country.

3 (f) State council members shall serve on a voluntary basis without
4 payment for their services. They shall be reimbursed for their travel
5 expenses from funds made available for that purpose. Such reimbursement shall
6 include, when necessary, payment for travel, meals, lodging, etc., for a
7 personal care assistant, day care services that allow a family member to
8 attend, or other accommodations necessary to ensure the participation of all
9 state council members.

10 (g) The state council shall:

11 (1) Develop, in consultation with the Department of Human
12 Services, rules, regulations, and guidelines necessary to implement this act.

13 (2) Develop and issue a Request for Proposals for establishment
14 of eight (8) District Individual and Family Support Programs. Evaluate and
15 select winning grantees.

16 (3) Advise and report to the Directors of the Departments of
17 Human Services, Education, and Health on matters of policy and programs
18 related to services to individuals with MD, PD, CI, or OSN and their families.

19 (4) Identify and recommend fiscal policy, training and program
20 initiatives, priorities, and revisions based on needs identified in the
21 planning process and through the collection of information from each of the
22 district councils.

23 (5) Establish eight (8) District Individual and Family Support
24 Councils and appoint the initial membership of the district councils.

25 (6) Monitor the implementation of Individual and Family Support
26 Services on a statewide and regional basis.

27 (7) Review program effectiveness through the collection of data
28 and development of an annual report to the Governor and the Legislature.

29 (8) Establish guidelines for the initial and ongoing training for
30 members of the state council and the district councils and for the Service
31 Coordinators.

32 (9) Submit a statewide plan and budget recommendations to the
33 director of Human Services on or before March 15 of each even numbered year
34 preceding the regular session of the Arkansas General Assembly.

35

1 SECTION 6. District Individual and Family Support Councils.

2 (a) Eight (8) district councils of eleven (11) members shall be
3 established with membership as follows:

4 (1) Ten (10) members shall be individuals with disabilities or
5 their family members and should represent a broad diversity of disability,
6 age, and race.

7 (2) The eleventh member shall be a member of the Arkansas General
8 Assembly from a district within the region the district council serves.

9 (b) Members of a district council shall serve staggered terms of three
10 (3) years.

11 (c) (1) The initial members of each district council shall be selected
12 by members of the state council. Of the initial members:

13 (A) three (3) shall be appointed for a term of one (1) year;

14 (B) four (4) shall be appointed for a term of two (2) years;

15 and

16 (C) four (4) shall be appointed for a term of three (3)
17 years.

18 (2) Subsequent members shall be appointed by the district council.
19 The district council shall solicit nominations for its membership from those
20 persons receiving individual or family support within its district.

21 (d) All members of the district council shall receive six (6) hours of
22 training yearly provided by individuals or groups with knowledge and
23 experience of family supports, its philosophy and practices, throughout the
24 country.

25 (e) District council members shall serve on a voluntary basis without
26 payment for their services. They shall be reimbursed for their travel
27 expenses from funds made available for that purpose. Such reimbursement shall
28 include, when necessary, payment for travel, meals, lodging, etc., for a
29 personal care assistant, day care services that allow a family member to
30 attend, or other accommodations necessary to ensure the participation of all
31 district council members.

32 (f) The responsibilities of the district councils are as follows:

33 (1) To establish guidelines for its operation (i.e. meetings,
34 selection of officers, etc.).

35 (2) To establish guidelines for the selection criteria and

1 process of those to be served through the Individual and Family Support
2 Program within its jurisdiction. It should ensure, to the extent possible,
3 that the process is fair and equitable and consistent with the principles and
4 parameters established within this act.

5 (3) Review and comment on plans and services provided by state
6 and local agencies that affect the state plan.

7 (4) Assess needs, establish goals, and set priorities for the
8 provision of Individual and Family Supports and provide for coordinated
9 delivery of services, resources, and programs for individuals and families.

10 (5) Develop guidelines to ensure that individuals and families
11 throughout a district are informed about the availability of Individual and
12 Family Supports.

13 (6) Ensure that families and individuals who receive Individual
14 and Family Supports are informed about their rights and responsibilities.

15 (7) Implement criteria to ensure training for service
16 coordinators consistent with the principles of this act.

17 (8) Make available to families and individuals a list of those
18 who are authorized to provide service coordination as defined by this act
19 within the district.

20 (9) Ensure appropriate accountability of payments through
21 Individual and Family Supports.

22 (10) Ongoing data collection that assures the ability of the
23 state council to determine the effectiveness of district programs, including,
24 but not limited to:

- 25 (a) unserved, though eligible, individuals and families;
- 26 (b) barriers to services in each district;
- 27 (c) changes in institutional and out-of-home placements;
- 28 (d) other information determined by the state council; and
- 29 (e) consumer satisfaction with services.

30 (11) Set budget parameters within the program, including the
31 priorities for services within those eligible for funding, e.g. incidence of
32 each type of disability, other services available within each region, severity
33 of disability and other criteria as deemed appropriate.

34 (12) Monitor the provision of services within the region.

35

1 SECTION 7. Quality Enhancement/Assurance.

2 (a) The state council shall establish regulations for the assurance of
3 the provisions of quality services funded through this act. The regulations
4 shall include, but are not limited to, oversight of the statewide program and
5 district councils by the state council, oversight of district programs through
6 the district councils, and ongoing training requirements for service
7 coordinators and district council members.

8 (b) An annual evaluation based on consumer satisfaction and performance
9 indicators shall be conducted. Such evaluation shall be incorporated into an
10 annual report provided to the Legislature and appropriate consumer advocates.

11 (c) The state council shall monitor the activities of district councils
12 and programs and may require training, technical assistance and peer review
13 activities to be provided to district councils to enhance quality and consumer
14 satisfaction with district services.

15

16 SECTION 8. Grievance/Appeals Procedure:

17 Persons applying for or receiving services under this act shall have
18 access to an appeals process which shall be defined in the regulations of the
19 state council.

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21 SECTION 9. Economic Implications of Individual and Family Supports.

22 (a) All services, supports and benefits provided under this act,
23 including cash subsidies, shall be construed as benefits not subject to
24 taxation.

25 (b) Funds, goods or services provided to eligible individuals or
26 families by the Individual and Family Supports Program under this act shall
27 not be considered as income to those individuals or families for any purpose
28 under the laws of this state or under the rules and regulations, regarding
29 eligibility, of any agency of state government.

30

31 SECTION 10. All provisions of this act of a general and permanent
32 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
33 Code Revision Commission shall incorporate the same in the Code.

34

35 SECTION 11. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect
2 other provisions or applications of the act which can be given effect without
3 the invalid provision or application, and to this end the provisions of this
4 act are declared to be severable.

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6 SECTION 12. All laws and parts of laws in conflict with this act are
7 hereby repealed.

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/s/Rep. McJunkin, et al