

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Pollan**

A Bill

HOUSE BILL 1954

For An Act To Be Entitled

8 "AN ACT TO ESTABLISH TREATMENT PROGRAMS FOR CERTAIN
9 PERSONS UNDER SUPERVISION OF THE DEPARTMENT OF COMMUNITY
10 PUNISHMENT WHO HAVE COMMITTED A SEXUAL OFFENSE AGAINST A
11 CHILD; AND FOR OTHER PURPOSES."

Subtitle

14 "TO ESTABLISH TREATMENT PROGRAMS FOR CERTAIN SUPERVISED
15 PERSONS WHO HAVE COMMITTED A SEXUAL OFFENSE AGAINST A
16 CHILD."

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

20 SECTION 1. For purposes of this act:

21 (1) "Qualified provider" means any of the following persons licensed by
22 the State of Arkansas who provide documentation satisfactory to a committee to
23 be designated by the Arkansas Commission on Child Abuse, Rape and Domestic
24 Violence that they have specific approved training and experience in
25 conducting sex offender assessments and sex offender treatment:

26 (A) Professional counselors;

27 (B) Psychological examiners and psychologists;

28 (C) Master_s psychiatric nurses;

29 (D) Master_s social workers and licensed certified social
30 workers;

31 (E) Physician with approved residency in psychiatry.

32 (2) "Sex offender assessment" means the process of assessing patterns
33 and motivations for a sexual offense and psychological and social problems
34 associated with the offense using specific procedures prescribed by the
35 committee.

1 (3) "Sex offender treatment program" means a specialized program
2 designed to treat deviant sexual behavior and related problems using specific
3 procedures prescribed by the committee.

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5 SECTION 2. (a) When a prosecuting attorney informs the court that a
6 person who has pled guilty to committing a sexual offense against a minor is
7 eligible under this act for participation in a sex offender treatment program,
8 the sentencing court may place the offender on supervised probation with one
9 of the conditions of the probation being the participation in a sex offender
10 treatment program under this act. The determination of the prosecuting
11 attorney as to eligibility of the offender shall be based upon a sex offender
12 assessment conducted by a qualified provider.

13 (b) Notwithstanding Arkansas Code §5-4-301, the court shall enter a
14 judgment of conviction when an offender pleads guilty to committing a sexual
15 offense or incest against a minor.

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17 SECTION 3. Eligible offenders must:

18 (1) Have no prior convictions or determinations of guilt for any sex
19 offense or incest committed in this state or any other state;

20 (2) Have been accused of committing a sexual offense against a minor;

21 (3) Not have been accused of using physical violence or weapons in the
22 course of the offense; and

23 (4) Have undergone a sex offender assessment paid for by the offender.

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25 SECTION 4. The authority for determining eligibility under this act
26 rests solely in the discretion of the prosecuting attorney except that the
27 prosecuting attorney may not determine an accused to be eligible if the
28 accused does not meet the criteria established in Section 3.

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30 SECTION 5. If the prosecuting attorney determines that an accused is
31 eligible to participate in a sex offender treatment program under this act,
32 the prosecuting attorney shall notify the attorney for the accused that the
33 accused has been determined to be eligible for treatment. Within seven (7)
34 days after receiving the notification, the attorney for the accused must
35 notify in writing the prosecuting attorney as to whether the accused is

1 willing to participate in a sex offender treatment program under the
2 conditions pursuant to this act.

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4 SECTION 6. In order to participate in a sex offender treatment program,
5 the offender must:

6 (1) Vacate the premises wherein the victim lives and, if applicable,
7 the usual home of the victim regardless of the residential status of the
8 victim;

9 (2) Contact the investigating law enforcement agency and give a
10 complete, detailed confession of the offense;

11 (3) Sign a release waiving all confidentiality in sex offender
12 treatment and assessment with respect to communications between the sex
13 offender treatment and assessment providers and all other professionals
14 involved in the case, including therapists (both for the alleged offender and
15 the victim), the prosecuting attorney, court personnel, the Division of
16 Children and Family Services or its designates, and probation officers;

17 (4) Agree to enroll in, regularly attend and successfully complete a
18 sex offender treatment program;

19 (5) Agree to pay the cost of the treatment and comply with any and all
20 additional recommendations made by the sex offender treatment programs;

21 (6) Agree to any of the following additional conditions which may be
22 designated by the prosecuting attorney:

23 (A) Refrain from possessing any sexually explicit material
24 involving minors;

25 (B) Live apart from any minor, have no contact with minors
26 unless under direct supervision of an adult approved by the probation officer
27 and assume no responsibility of the supervision or discipline of any minor,
28 including any contact or supervision of minors which might occur during the
29 course of employment or job duties until approved by the probation officer;

30 (C) Remain gainfully employed and contribute to the maintenance
31 of the family household of the victim in such amount as subscribed by the
32 court;

33 (D) Refrain from the possession and use of alcoholic beverages
34 and illegal controlled substances;

35 (E) Agree to random drug testing at the discretion of the

1 probation officer;

2 (F) Have no contact with the victim or the victim's family,
3 including telephone and written correspondence except upon prior approval of
4 the treatment program personnel;

5 (G) Pay the cost of treatment of the victim; and

6 (H) Agree not to attempt to influence directly or indirectly the
7 victim or the victim's family to lobby on behalf of the offender for
8 relaxation of any of the conditions prescribed herein.

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10 SECTION 7. (a) In determining who is qualified to provide sex offender
11 assessment and sex offender treatment the committee specified by the Arkansas
12 Commission on Child Abuse, Rape and Domestic Violence may consider, in
13 addition to any other factors:

14 (1) Participation in specific conferences, workshops, seminars,
15 and other formal education settings on the subject of sex offenders, sex
16 offender treatment, and sexual abuse;

17 (2) Membership in professional societies or organizations
18 directly concerned with sexual abuse or sexual offender treatment;

19 (3) Completion of fellowships, internships or supervised
20 clinical work in sexual abuse or sexual offender treatment;

21 (4) Subscription to professional journals or newspapers,
22 specifically concerned with sexual abuse or sexual offender treatment; and

23 (5) Amount of experience in providing sex offender treatment or
24 assessment.

25 (b) Persons conducting sex offender assessments shall not rely solely
26 upon a history provided by the alleged offender but shall also analyze
27 information obtained from the victims and other persons as well as assessment
28 for the presence of any psychiatric or psychological disorder of the offender.

29 The assessment shall specifically address the extent of deviant sexual
30 arousal and behavior, ability and motivation to benefit from sex offender
31 treatment, prognosis for committing subsequent offenses, risks to the
32 community, and impact on the victim and others if the alleged offender were
33 incarcerated as opposed to placed in a sex offender treatment program.

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35 SECTION 8. Target areas for treatment should include, but not be

1 limited to, sexual arousal patterns, understanding of victim impact and victim
2 empathy, correction of thinking and attitudinal patterns which contribute to
3 offenses, understanding motivations for the offense, and developing a specific
4 plan to recognize and avoid the risk of subsequent offenses. Where available,
5 treatment should include participation in a specific sex offender therapy
6 group. In addition, sex offender treatment should provide for treatment of
7 any problem areas of disorders which might impact ability to meet treatment
8 goals or risk of subsequent offenses including substance abuse and alcohol
9 abuse treatment, treatment for psychiatric, psychologic or personality
10 disorders, or participation in parenting skills or related courses.

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12 SECTION 9. The qualified provider responsible for the sex offender
13 treatment programs shall notify the probation officer and the prosecuting
14 attorney when, in the opinion of the provider, the offender is failing to
15 comply with the prescribed treatment or that the offender has been terminated
16 from the sex offender treatment program for failure to make adequate progress.
17 Notification shall be made within thirty (30) calendar days after the
18 determination or termination.

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20 SECTION 10. An offender's probation may be revoked at any time for
21 failure to comply with any of the conditions of this act or any additional
22 conditions specified by the probation officer or the sentencing court.

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24 SECTION 11. The Department of Corrections, Department of Human
25 Services and a committee designated by the Arkansas Commission on Child Abuse,
26 Rape and Domestic Violence shall submit a plan for interagency collaboration
27 for implementation of the provisions of this act to the Arkansas Commission on
28 Child Abuse, Rape and Domestic Violence. The plan shall include provisions
29 addressing provider training program development, data collection and
30 reporting and funding mechanisms. This plan shall be submitted to the
31 Commission within one hundred twenty (120) days after the effective date of
32 this act.

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34 SECTION 12. All provisions of this act of a general and permanent
35 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas

1 Code Revision Commission shall incorporate the same in the Code.

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3 SECTION 13. If any provision of this act or the application thereof to
4 any person or circumstance is held invalid, such invalidity shall not affect
5 other provisions or applications of the act which can be given effect without
6 the invalid provision or application, and to this end the provisions of this
7 act are declared to be severable.

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9 SECTION 14. All laws and parts of laws in conflict with this act are
10 hereby repealed.

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/s/C. Pollan

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