

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

# A Bill

**HOUSE BILL**

4 **By: Representatives Collier and Fairchild**

5

6

7

## **For An Act To Be Entitled**

8 "AN ACT TO ENSURE THAT HEALTH CARE PROVIDERS ADHERE TO THE  
9 HIGHEST POSSIBLE LEVELS OF INFECTION CONTROL IN HEALTH  
10 CARE DELIVERY; THAT PERSONS WHO REPORT INSTANCES OF  
11 IMPROPER INFECTION CONTROL PRACTICES ARE PROTECTED FROM  
12 DISCRIMINATION AND CIVIL AND CRIMINAL LIABILITY; AND FOR  
13 OTHER PURPOSES."

14

15

## **Subtitle**

16 "TO ENSURE THAT HEALTH CARE PROVIDERS ADHERE TO HIGH  
17 LEVELS OF INFECTION CONTROL IN HEALTH CARE DELIVERY."

18

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

20

21 SECTION 1. TITLE.

22 This act shall be known as and may be cited as the Health Promotion and  
23 Consumer Protection Act of 1993.

24

25 SECTION 2. DEFINITIONS.

26 As used in this act, unless the context otherwise requires:

27 (1) "CDC Guidelines" means the Centers for Disease Control guidelines  
28 on Universal Precautions for Prevention of Transmission of Human  
29 Immunodeficiency Virus, Hepatitis B Virus, and other Blood-borne Pathogens in  
30 Health Care Settings; and

31 (2) "OSHA Blood-borne Pathogens Standard" means the Occupational Safety  
32 and Health Administration's Final Standard for Occupational Exposure to Blood-  
33 borne Pathogens, 29 C.F.R. § 1910.1030.

34

35 SECTION 3. LEGISLATIVE FINDINGS.

1           (1) The Arkansas General Assembly hereby finds and determines that  
2 there is a need for safeguards to protect health care workers and health care  
3 consumers from the health hazards related to blood-borne pathogens. The  
4 blood-borne pathogens that cause the Acquired Immunodeficiency Syndrome (AIDS)  
5 and Hepatitis B are of special concern. The General Assembly further  
6 recognizes the importance of adherence by all health care employers and other  
7 health care providers to the CDC Guidelines, which are intended to protect  
8 health care workers and health care consumers from exposure to blood-borne  
9 pathogens, and of compliance by covered employers with the OSHA Blood-borne  
10 Pathogens Standard.

11           (2) Arkansas recognizes the obligation of health care employers and  
12 other healthcare providers to adhere to the health promotion and disease  
13 prevention practices set forth in this act in order to protect health care  
14 workers and health care consumers from preventable exposure to blood-born  
15 pathogens.

16           (3) Arkansas further recognizes the importance of encouraging  
17 disclosure to public health agencies or other responsible government officials  
18 of unlawful or hazardous activities that may endanger the public health or  
19 safety. In particular, the General Assembly finds that it is necessary to  
20 ensure that no health care worker, whether a private sector, state, or local  
21 government employee, and no health care consumer be discouraged by the fear of  
22 discrimination or of civil or criminal liability from bringing to the  
23 attention of government officials information that the practices called for by  
24 the CDC Guidelines or the OSHA Blood-borne Pathogens Standard may not have  
25 been adhered to by a health care employer or other health care provider.

26

27           SECTION 4. PURPOSE.

28           The purpose of this act is to promote adherence to the practices  
29 described in the CDC Guidelines and the OSHA Blood-borne Pathogens Standard in  
30 the health care workplace by prohibiting discrimination against or civil or  
31 criminal liability of any health care worker or health care consumer who in  
32 good faith makes a report alleging the failure of an employer or other  
33 provider to comply with such practices to any public health agency or other  
34 responsible government official. The required practices include, but are not  
35 limited to, the following:

- 1           (1) Proper sterilization, disinfection, and disposal of equipment and  
2 materials;
- 3           (2) Appropriate use of personal protective equipment including gloves,  
4 gown, mask, goggles, and faceshield;
- 5           (3) Handling of all body fluids and blood as if contaminated;
- 6           (4) Appropriate handwashing; and
- 7           (5) Due care in the use and disposal of needles and other sharp  
8 instruments.

9

10           SECTION 4. (a) No health care employer or other health care provider  
11 shall discharge, threaten, or otherwise discriminate against an employee or  
12 any other person because the employee or other person reports or otherwise  
13 discloses, or demonstrates an intent to report or disclose, to a public health  
14 agency or other responsible government official, an activity, practice or  
15 procedure that the employee or other person in good faith believes to  
16 constitute a failure by an employer or provider to comply with the provisions  
17 of the CDC Guidelines or the OSHA Blood-born Pathogens Standard.

18           (b) Any person who believes that he or she has been discharged,  
19 threatened, or otherwise discriminated against by any health care employer or  
20 other health care provider in violation of this act may, within ninety (90)  
21 days after such alleged violation occurs, file or have any person file on his  
22 or her behalf a civil action in a court of competent jurisdiction for  
23 appropriate relief as prescribed in subsection (c).

24           (c) A court, in rendering a judgment in an action brought under this  
25 act, shall order all appropriate relief, which may include reinstatement of  
26 the person filing the complaint, payment of back wages, reinstatement of  
27 fringe benefits and seniority rights, actual and exemplary damages, and such  
28 equitable relief as may be necessary to make the complaining person whole or  
29 to correct, prevent, or restrain a violation of the CDC Guidelines or the OSHA  
30 Blood-borne Pathogens Standard. A court may also award all or a portion of  
31 the costs of litigation, including reasonable attorney\_s fees.

32           (d) No person who takes any action protected under subsection (a) shall  
33 be subject to any civil or criminal liability that might otherwise be incurred  
34 on account of such action, except where such person makes a frivolous report  
35 and acts with malice or with deliberate intent to injure any other person.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

SECTION 5. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

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

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

State of Arkansas  
79th General Assembly  
**Regular Session, 1993**  
**By: Representatives Collier and Fairchild**

**A Bill**

**HOUSE BILL**

**For An Act To Be Entitled**

"AN ACT TO ENSURE THAT HEALTH CARE PROVIDERS ADHERE TO THE  
HIGHEST POSSIBLE LEVELS OF INFECTION CONTROL IN HEALTH  
CARE DELIVERY; THAT PERSONS WHO REPORT INSTANCES OF  
IMPROPER INFECTION CONTROL PRACTICES ARE PROTECTED FROM  
DISCRIMINATION AND CIVIL AND CRIMINAL LIABILITY; AND FOR  
OTHER PURPOSES."

**Subtitle**

"TO ENSURE THAT HEALTH CARE PROVIDERS ADHERE TO HIGH  
LEVELS OF INFECTION CONTROL IN HEALTH CARE DELIVERY."

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

SECTION 1. TITLE.

This act shall be known as and may be cited as the Health Promotion and  
Consumer Protection Act of 1993.

SECTION 2. DEFINITIONS.

As used in this act, unless the context otherwise requires:

(1) "CDC Guidelines" means the Centers for Disease Control guidelines  
on Universal Precautions for Prevention of Transmission of Human  
Immunodeficiency Virus, Hepatitis B Virus, and other Blood-borne Pathogens in  
Health Care Settings; and

1 (2) "OSHA Blood-borne Pathogens Standard" means the Occupational Safety  
2 and Health Administration's Final Standard for Occupational Exposure to Blood-  
3 borne Pathogens, 29 C.F.R. § 1910.1030.

4

5 SECTION 3. LEGISLATIVE FINDINGS.

6 (1) The Arkansas General Assembly hereby finds and determines that  
7 there is a need for safeguards to protect health care workers and health care  
8 consumers from the health hazards related to blood-borne pathogens. The  
9 blood-borne pathogens that cause the Acquired Immunodeficiency Syndrome (AIDS)  
10 and Hepatitis B are of special concern. The General Assembly further  
11 recognizes the importance of adherence by all health care employers and other  
12 health care providers to the CDC Guidelines, which are intended to protect  
13 health care workers and health care consumers from exposure to blood-borne  
14 pathogens, and of compliance by covered employers with the OSHA Blood-borne  
15 Pathogens Standard.

16 (2) Arkansas recognizes the obligation of health care employers and  
17 other healthcare providers to adhere to the health promotion and disease  
18 prevention practices set forth in this act in order to protect health care  
19 workers and health care consumers from preventable exposure to blood-born  
20 pathogens.

21 (3) Arkansas further recognizes the importance of encouraging  
22 disclosure to public health agencies or other responsible government officials  
23 of unlawful or hazardous activities that may endanger the public health or  
24 safety. In particular, the General Assembly finds that it is necessary to  
25 ensure that no health care worker, whether a private sector, state, or local  
26 government employee, and no health care consumer be discouraged by the fear of  
27 discrimination or of civil or criminal liability from bringing to the  
28 attention of government officials information that the practices called for by  
29 the CDC Guidelines or the OSHA Blood-borne Pathogens Standard may not have  
30 been adhered to by a health care employer or other health care provider.

31

32 SECTION 4. PURPOSE.

33 The purpose of this act is to promote adherence to the practices  
34 described in the CDC Guidelines and the OSHA Blood-borne Pathogens Standard in  
35 the health care workplace by prohibiting discrimination against or civil or

1 criminal liability of any health care worker or health care consumer who in  
2 good faith makes a report alleging the failure of an employer or other  
3 provider to comply with such practices to any public health agency or other  
4 responsible government official. The required practices include, but are not  
5 limited to, the following:

6 (1) Proper sterilization, disinfection, and disposal of equipment and  
7 materials;

8 (2) Appropriate use of personal protective equipment including gloves,  
9 gown, mask, goggles, and faceshield;

10 (3) Handling of all body fluids and blood as if contaminated;

11 (4) Appropriate handwashing; and

12 (5) Due care in the use and disposal of needles and other sharp  
13 instruments.

14

15 SECTION 4. (a) No health care employer or other health care provider  
16 shall discharge, threaten, or otherwise discriminate against an employee or  
17 any other person because the employee or other person reports or otherwise  
18 discloses, or demonstrates an intent to report or disclose, to a public health  
19 agency or other responsible government official, an activity, practice or  
20 procedure that the employee or other person in good faith believes to  
21 constitute a failure by an employer or provider to comply with the provisions  
22 of the CDC Guidelines or the OSHA Blood-born Pathogens Standard.

23 (b) Any person who believes that he or she has been discharged,  
24 threatened, or otherwise discriminated against by any health care employer or  
25 other health care provider in violation of this act may, within ninety (90)  
26 days after such alleged violation occurs, file or have any person file on his  
27 or her behalf a civil action in a court of competent jurisdiction for  
28 appropriate relief as prescribed in subsection (c).

29 (c) A court, in rendering a judgment in an action brought under this  
30 act, shall order all appropriate relief, which may include reinstatement of  
31 the person filing the complaint, payment of back wages, reinstatement of  
32 fringe benefits and seniority rights, actual and exemplary damages, and such  
33 equitable relief as may be necessary to make the complaining person whole or  
34 to correct, prevent, or restrain a violation of the CDC Guidelines or the OSHA  
35 Blood-borne Pathogens Standard. A court may also award all or a portion of

1 the costs of litigation, including reasonable attorney\_s fees.

2 (d) No person who takes any action protected under subsection (a) shall  
3 be subject to any civil or criminal liability that might otherwise be incurred  
4 on account of such action, except where such person makes a frivolous report  
5 and acts with malice or with deliberate intent to injure any other person.

6

7 SECTION 5. All provisions of this act of a general and permanent nature  
8 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
9 Revision Commission shall incorporate the same in the Code.

10

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

16

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

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8