

1 **State of Arkansas**

2 **79th General Assembly**

3 **Regular Session, 1993**

4 **By: Representatives Pollan, M. Wilson, Flanagan, Goodwin, McGee, Steele, Pryor, Smith,**  
5 **Wilkins**

# A Bill

**HOUSE BILL 2119**

## For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE §§ 9-27-303, 9-27-330, 9-  
10 27-331, 9-28-209 AND 9-28-210 TO TRANSFER AUTHORITY FROM  
11 THE YOUTH SERVICES BOARD TO THE *DEPARTMENT OF HUMAN*  
12 *SERVICES*; AND TO MAKE OTHER TECHNICAL CORRECTIONS; AND FOR  
13 OTHER PURPOSES."

## Subtitle

16 "AN ACT TO TRANSFER AUTHORITY FROM THE YOUTH SERVICES  
17 BOARD TO THE *DEPARTMENT OF HUMAN SERVICES*."

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

21 SECTION 1. Arkansas Code 9-27-303(7) is amended to read as follows:

22 "(7) *\_Commitment\_* means an order of the court which places a  
23 juvenile in the custody of the Department of Human Services for placement in a  
24 youth services facility or any other licensed juvenile facility approved by  
25 the court."

27 SECTION 2. Arkansas Code 9-27-303 is amended by adding the following  
28 subsection:

29 "(37) *\_Youth Services Facility\_* means any facility, under the  
30 operation of the state or its designee, for the care of juveniles who have  
31 been adjudicated delinquent or convicted of a crime and who require secure  
32 custody in either a physically restricting facility or a staff-secure  
33 facility, operated so that a juvenile may not leave the facility unsupervised  
34 or without supervision."

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1 SECTION 3. Arkansas Code 9-27-330 is amended to read as follows:

2 "9-27-330. Disposition - Generally - Alternatives. (a) If a juvenile  
3 is found to be delinquent, the court may enter an order making any of the  
4 following dispositions:

5 (1) Transfer legal custody of the juvenile to the Department of Human  
6 Services, or to another licensed agency responsible for the care of juveniles,  
7 or to a relative or other individual;

8 (2) Order the juvenile or members of the juvenile\_s family to submit to  
9 physical, psychiatric, or psychological evaluations;

10 (3) Commit the juvenile to the Department of Human Services for  
11 placement, using the Risk Assessment System for Arkansas Juvenile Offenders  
12 developed by the 1990 Youth Services Center Commitment Criteria Review  
13 Committee to be distributed and administered by the Administrative Office of  
14 the Courts;

15 (A) In an order of commitment, the court may recommend that a  
16 juvenile be placed in a community-based program instead of a youth services  
17 facility, and shall make specific findings in support of such a placement in  
18 the order;

19 (B) Upon receiving an order of commitment with recommendations  
20 for placement in a community-based program, the *Department of Human Services*  
21 shall consider the recommendations of the committing court in making its  
22 placement to a youth services facility or to a community-based alternative;

23 (4) Place the juvenile on probation under those conditions and  
24 limitations that the court may prescribe pursuant to § 9-27-339(a);

25 (5) Assess a court cost of no more than thirty-five dollars (\$35.00) to  
26 be paid by the juvenile or his parent, guardian, or custodian;

27 (6) Order restitution to be paid by the juvenile or his parent,  
28 guardian, or custodian;

29 (7) Order a fine of not more than five hundred dollars (\$500) to be  
30 paid by the juvenile or his parent, guardian, or custodian;

31 (8) Order that the juvenile participate in court-approved public  
32 service not to exceed one hundred sixty (160) hours.

33 (b) *If legal custody of the juvenile is transferred to the Department*  
34 *of Human Services, the court shall specify in the first order that authorizes*  
35 *the removal of the juvenile from the home that:*

1                   (1) (A) Continuation in the home is contrary to the welfare of the  
2 juvenile; or

3                                   (B) Placement is in the best interest of the juvenile; and

4                   (2) (A) Reasonable efforts were made by the Department of Human  
5 Services prior to the placement of the juvenile to prevent the placement;

6                                   (B) Reasonable efforts to prevent the placement were not  
7 possible; or

8                                   (C) Reasonable efforts to prevent the placement were  
9 possible and were not made, but reasonable efforts are now being made by the  
10 Department of Human Services to return the juvenile to the home."

11

12           SECTION 4. Arkansas Code 9-27-331(a) is amended to read as follows:

13           "(a) (1) A commitment to a youth services facility operated by the  
14 Department of Human Services is for an indeterminate period, not to exceed the  
15 eighteenth birthday of the juvenile.

16                   (2) An order of commitment shall remain in effect for an  
17 indeterminate period not exceeding two (2) years from the date entered.

18                   (3) Prior to the expiration of an order of commitment, the court  
19 may extend the order for additional periods of one (1) year if it finds the  
20 extension is necessary to safeguard the welfare of the juvenile or the  
21 interest of the public.

22                   (4) The committing court may recommend, at any time, that a  
23 juvenile be released from the custody of the Department of Human Services by  
24 making a written request for release stating the reasons release is deemed in  
25 the best interests of the juvenile and society.

26                   (5) Length of commitment and final decision to release shall be  
27 the exclusive responsibility of the *Department of Human Services*, considering  
28 objective guidelines developed by the board for length of stay."

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30           SECTION 5. Arkansas Code 9-28-209 is amended to read as follows:

31           "9-28-209. Disposition of delinquent youth.

32           (a) (1) When a juvenile court, circuit court, or any other court having  
33 jurisdiction of a youth under eighteen (18) years of age finds the youth to be  
34 delinquent or to have committed a crime as defined by the laws of this state,  
35 the court may commit the youth to of the Department of Human Services for an

1 indeterminate period, not to exceed the eighteenth birthday of the youth, for  
2 such action as the *Department of Human Services* shall determine.

3 (A) An order of commitment shall remain in effect for an  
4 indeterminate period not exceeding two (2) years, subject to extension by the  
5 committing court for additional periods of one (1) year if the court finds an  
6 extension is necessary to safeguard the welfare of the youth or the interest  
7 of the public.

8 (B) When an order of commitment includes recommendations  
9 for a specific placement, the *Department of Human Services* shall consider  
10 those recommendations in making a placement.

11 (2) The *Department of Human Services* has the authority to move a  
12 youth at any time within the system of youth services facilities and  
13 community-based programs.

14 (b) Upon the commitment of a youth to a youth services facility, the  
15 youth shall be delivered to a reception and diagnostic center for orientation,  
16 classification, diagnosis, and evaluation.

17 (c) (1) Upon completion of such orientation, classification, diagnosis,  
18 and evaluation, the staff of the center shall make recommendations to the  
19 director with respect to the disposition of the youth.

20 (2) Upon receipt of the recommendations, the *Department of Human*  
21 *Services* shall determine whether the youth should be retained in a youth  
22 services facility, and if so, which facility.

23 (d) (1) If the *Department of Human Services* determines that the youth  
24 should be retained in any of its facilities or programs , it shall determine  
25 the proper facility or program to which the youth shall be assigned upon the  
26 basis of physical condition, mental attitude and capacity, prognosis for  
27 successful rehabilitation, and such other criteria as the board shall  
28 determine and shall cause the youth to be committed to the appropriate  
29 facility or program.

30 (2) If the *Department of Human Services* determines that the youth  
31 is not suited for detention in the youth services facilities of the state, it  
32 shall report its findings and recommendations to the committing court along  
33 with recommendations, if any, regarding the appropriate disposition for the  
34 youth."

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1 SECTION 6. Arkansas Code 9-28-210 is amended to read as follows:

2 "9-28-210. Release.

3 (a) (1) In consideration of its juvenile correction role, the Arkansas  
4 Youth Services Board shall establish objective guidelines for length of stay  
5 when youths are committed to a youth services center.

6 (2) Length of commitment shall be the exclusive responsibility of  
7 the Department of Human Services and committed youths shall be reintegrated  
8 into society at a pace determined by the seriousness of the criminal law  
9 violation, aggravating or mitigating circumstances, community compatibility,  
10 and clinical outlook.

11 (b) The board shall establish rules and regulations regarding the  
12 eligibility of youths for release consideration.

13 (c) (1) Whenever the *Department of Human Services*, upon examination of  
14 the information and recommendations provided, shall be of the opinion that  
15 both the interest of the state and the interest of the youth would best be  
16 served by release, the Division of Children and Family Services shall grant  
17 release.

18 (2) The recommendations shall be made without the necessity of an  
19 application by or on behalf of the youth.

20 (3) In determining whether the interest of the state and the  
21 interest of the youth would best be served by release, the *Department of Human*  
22 *Services* shall consider the circumstances of the offense for which the youth  
23 has been committed, the attitude of the sentencing judge, the attitude of the  
24 probation officer of the sentencing court, the youth's previous delinquency  
25 record, the adequacy of community programs, and the stability of his home  
26 environment.

27 (d) (1) The committing court may, at any time, recommend that a youth be  
28 released from the custody of the *Department of Human Services*.

29 (2) The recommendation may be accomplished by providing the  
30 *Department of Human Services* with a written request for release stating the  
31 reasons release is deemed in the best interest of the child and society.

32 (3) The final decision to release shall be made by the *Department*  
33 *of Human Services*."

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35 SECTION 7. All provisions of this act of a general and permanent nature

1 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
2 Revision Commission shall incorporate the same in the Code.

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4 SECTION 8. If any provision of this act or the application thereof to  
5 any person or circumstance is held invalid, such invalidity shall not affect  
6 other provisions or applications of the act which can be given effect without  
7 the invalid provision or application, and to this end the provisions of this  
8 act are declared to be severable.

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

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*/s/C. Pollan, et al*

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