

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

A Bill

SENATE BILL 228

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 20-47-202(n) TO ELIMINATE
9 THE REFERENCE TO GREATER LITTLE ROCK COMMUNITY MENTAL
10 HEALTH CENTER FROM THE DEFINITION OF _STATE MENTAL HEALTH
11 SYSTEM_; TO AMEND ARKANSAS CODE § 20-46-301 TO AUTHORIZE
12 THE DHS-DIVISION OF MENTAL HEALTH TO LEASE PROPERTY AND
13 EQUIPMENT AND LEASE EMPLOYEES TO COMMUNITY MENTAL HEALTH
14 CENTERS; TO AMEND ARKANSAS CODE § 25-10-103 TO AUTHORIZE
15 THE STATE HOSPITAL BOARD TO LEASE FACILITIES TO COMMUNITY
16 MENTAL HEALTH CENTERS; TO AMEND ARKANSAS CODE § 23-92-304
17 TO INSURE THAT THE STATE OF ARKANSAS AND ITS AGENCIES AND
18 DEPARTMENTS ARE EXEMPT FROM THE ARKANSAS EMPLOYEE LEASING
19 ACT; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

22 "AN ACT TO AID CHANGE OF GREATER LITTLE ROCK MENTAL HEALTH
23 CENTER TO A NONPROFIT CENTER AND TO AUTHORIZE THE LEASE OF
24 EMPLOYEES FROM THE STATE."

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

28 SECTION 1. Subsection (n) of Arkansas Code § 20-47-202 is hereby
29 amended to read as follows:

30 "(n) _State mental health system_ refers to the Little Rock State
31 Hospital, George W. Jackson Community Mental Health Center in Jonesboro,
32 Arkansas, and any other facility or program or licensed certified by the
33 Division of Mental Health Services of the Department of Human Services."

35 SECTION 2. Arkansas Code § 20-46-301 is hereby amended to read as

1 follows:

2 "20-46-301. Department of Human Services - Division of Mental Health
3 Services - Powers and duties.

4 (a) The Department of Human Services shall have the authority and power
5 to create and maintain a Division of Mental Health Services, and to provide
6 services for community mental health clinics and centers, which shall be
7 administered through such divisions, offices, sections, or units of the
8 department as may be determined by the director.

9 (b) The department shall have the authority to establish or assist in
10 the establishment and direction of those mental health clinics and centers in
11 local and regional areas of the state which shall be operated under such
12 divisions, offices, sections, or units of the department as may be determined
13 by the director. The department shall have the authority to lease or to
14 assign the use of any property and equipment owned by the department,
15 including furniture, fixtures, and any and all kinds of office equipment and
16 supplies, to those community mental health clinics and centers to assist them
17 for the advancement of mental health in the state.

18 (c) The Department of Human Services shall engage in programs of mental
19 health education in cooperation with the state's governmental units and
20 established mental health education organizations, organized civic groups, lay
21 organizations, and recognized mental health authorities, utilizing therefor
22 the facilities of those organizations and groups for the advancement of mental
23 health.

24 (d) (1) In the event a state operated community mental health center
25 acquires private non-profit status, the Division of Mental Health Services of
26 Department of Human Services shall have the authority to lease employees of
27 the Division to perform services for the private non-profit community mental
28 health center to ensure the continued delivery of satisfactory levels of
29 mental health services consistent with the goals and objectives of the
30 Department and the Division.

31 (2) The director shall have the authority to negotiate an
32 employee leasing arrangement with the private non-profit community mental
33 health center as on-going contract to perform mental health services for the
34 center. The arrangement shall provide, as minimum:

35 (A) for reimbursement for all leased Division employee

1 financial obligations with respect to wages, employment taxes, and employee
2 benefits of each employee providing services for the center and for
3 reimbursement of administrative costs associated with the leased employees;

4 (B) that all leased employees are covered by workers_
5 compensation insurance provided in conformance with laws of the state and
6 which may be provided by either the department or the center;

7 (C) that all leased employees shall be limited to providing
8 services to clients or in support of clients which are consistent with the
9 goals and objectives of the division and the department.

10 (D) that the division and the department shall not be
11 vicariously liable for the liabilities of the center, whether contractual or
12 otherwise;

13 (E) that the center shall provide liability insurance for
14 the employees and indemnify the state for any actions of the employees; and

15 (F) that it shall not be effective for a period of time to
16 exceed each state fiscal biennium and payment and performance obligations of
17 the arrangement are subject to the availability and appropriation of funds for
18 the employees salaries and other benefits.

19 (3) Employer responsibilities for leased employees shall be shared
20 by the department and the community mental health center. The department
21 shall be responsible for the administration and management of employee
22 compensation and all employee benefit and welfare plans. The center may
23 exercise day-to-day supervision and control of the employees_ delivery of
24 services in conformity with all division and department policies and
25 procedures."

26
27 SECTION 3. Arkansas Code § 25-10-103 is hereby amended to read as
28 follows:

29 "25-10-103. Mental health services - State Hospital Board.

30 (a) The State Hospital for the mentally ill at Little Rock and the Long-
31 Term Care Facility at Benton and all improvements, expansions, and additions
32 to those institutions made subsequent to February 4, 1971, shall be operated
33 under the control of the State Hospital Board within the Department of Human
34 Services.

35 (b) The State Hospital Board shall name the Director of the State

1 Hospital and the head of each of the institutions under the board's
2 jurisdiction with the concurrence of the Director of the Department of Human
3 Services.

4 (C) Under a type 1 transfer of the State Hospital Board, and the
5 institutions under its management and control, to the Department of Human
6 Services, the board shall have control of all budgeting, purchasing, and
7 related management functions in accordance with the limitations and
8 restrictions thereon provided in this act and by other laws applicable
9 thereto.

10 (d)(1) It is the intent of this section that the administration of the
11 State Hospital for the mentally ill and the various facilities and services
12 thereof shall be under the control of the State Hospital Board, as provided
13 and intended by the Arkansas Constitution, Amendment 33, but that the board
14 shall exercise its control in accordance with the general guidelines,
15 policies, and regulations of the Director of the Department of Human Services
16 governing divisions, offices, sections, or units within the department with
17 respect to budgets, personnel and personnel policies, records, bookkeeping,
18 and other administrative procedures prescribed by the director.

19 (2) It is further the intent of this act that the State Hospital
20 Board shall devote its time and resources to the operation and management of
21 the institutional programs of the State Hospital and that the establishment
22 and operation of a Division of Mental Health Services and the state's program
23 of community health clinics and centers and other regional and community
24 services benefiting the mentally ill shall be administered by the Department
25 of Human Services through the divisions, offices, sections, or units of the
26 department determined by the director of the department.

27 (3) The State Hospital Board shall have the authority to lease or
28 assign the use of any real property or facilities under its control to assist
29 community health clinics and centers and other regional and community
30 services.

31 (e)(1) Nothing in this act shall be deemed to affect or repeal the
32 authority of the State Hospital Director to be the Compact Administrator of
33 the Interstate Compact on Mental Health, §§ 20-50-101 - 20-50-106, or to
34 perform other duties specifically vested in the Director of the State
35 Hospital.

1 (2) Nothing in this act shall be construed to prevent state
2 hospitals and community mental health centers from having clinical
3 responsibility for the diagnosis and treatment and the case management of each
4 patient treated by them for emotional and mental conditions. Clinical
5 responsibility and case management shall be vested in a duly licensed mental
6 health professional who is operating within the area of competence of that
7 professional as prescribed by state standards and guidelines consistent with
8 state law. For patients identified as having multiple conditions, problems, or
9 disabilities other than, or in addition to, emotional or mental conditions,
10 case management shall be the responsibility of the Department of Human
11 Services, or of the division, office, section, or unit thereof, or of the
12 community provider or program which the department shall direct."

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14 SECTION 4. Arkansas Code § 23-92-304 is hereby amended to read as
15 follows:

16 "23-92-304. Exemptions.

17 The provisions of this subchapter do not apply to:

18 (1) A labor organization; or

19 (2) Any political subdivision of this state, the State of Arkansas or
20 any of its agencies and departments, or the United States, and any program or
21 agency thereof."

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

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

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

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1 SECTION 8. Emergency. It is hereby found and determined by the
2 Seventy-Ninth General Assembly of the State of Arkansas that Section 17 of Act
3 1082 of 1991 anticipates the Greater Little Rock Community Mental Health
4 Center will cease being a part of a state agency and will become a private
5 non-profit center; that mental health patients in the Greater Little Rock area
6 will receive more efficient and effective delivery of mental health services
7 from a private non-profit center; and that several immediate changes in
8 Arkansas law are necessary to clarify the status of the Greater Little Rock
9 Community Mental Health Center and to expedite the transfer of authority and
10 the transition of patients, employees, and facilities to the non-profit
11 status. Therefore, in order to expedite the delivery of more efficient and
12 effective mental health services in the Central Arkansas area, an emergency is
13 hereby declared to exist, and this act being necessary for the immediate
14 preservation of the public peace, health, and safety, shall be in full force
15 and effect from and after its passage and approval.

16 /s/ Senator Snyder

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