

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

# A Bill

HOUSE BILL 2828

5 By: Representative Hathorn  
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## For An Act To Be Entitled

9 AN ACT TO AMEND THE INVOLUNTARY COMMITMENT  
10 DEFINITIONS TO INCLUDE COVERAGE OF PERSONS WHO  
11 ARE MENTALLY RETARDED AND CHARGED WITH A CRIME  
12 AND WHO ARE FOUND NOT FIT TO PROCEED; AND FOR  
13 OTHER PURPOSES.  
14

## Subtitle

15 AN ACT TO AMEND THE INVOLUNTARY  
16 COMMITMENT DEFINITIONS TO INCLUDE  
17 COVERAGE OF PERSONS WHO ARE MENTALLY  
18 RETARDED AND CHARGED WITH A CRIME AND  
19 WHO ARE FOUND NOT FIT TO PROCEED.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code Annotated § 20-47-202 is amended to read as  
26 follows:

27 20-47-202. Definitions.

28 (1) "Administrator" refers to the chief administrative officer  
29 or executive director of any private or public facility or of any community  
30 mental health center certified by the Division of Mental Health Services;

31 (2) "Community mental health center" refers to a program and its  
32 affiliates established and administered by the state, or a private, nonprofit  
33 corporation certified by the division for the purpose of providing mental  
34 health services to the residents of a defined geographic area and which  
35 minimally provides twenty-four-hour emergency, inpatient, outpatient,  
36 consultation, education, prevention, partial care, follow-up and aftercare,



1 and initial screening and precare services. The division may contract with a  
 2 community mental health center for the operation and administration of any  
 3 services which are part of the state mental health system;

4 (3) "Crisis response services" refers to immediate or emergency  
 5 treatment. Because mental illnesses are often of an episodic nature, there  
 6 will be instances that require acute and quick crisis response services;

7 (4) "Deputy director" refers to the chief executive officer for  
 8 the Division of Mental Health Services;

9 (5) "Detention" refers to any confinement of a person against  
 10 his or her wishes and begins either:

11 (A) When a person is involuntarily brought to a receiving  
 12 facility or program or to a hospital;

13 (B) When, pursuant to § 20-47-209(a), the person appears  
 14 for the initial hearing; or

15 (C) When a person on a voluntary status in a receiving  
 16 facility or program or a hospital requests to leave pursuant to § 20-47-  
 17 204(3);

18 (6) "Division" refers to the Division of Mental Health Services  
 19 of the Department of Human Services;

20 (7) "Hospital" refers to the University of Arkansas for Medical  
 21 Sciences Hospital, the federal Department of Veterans Affairs Hospitals, or  
 22 any private hospital with a fully trained psychiatrist on the active or  
 23 consultant staff;

24 (8) "Initial screening" refers to initial screening services  
 25 conducted by a mental health professional provided by a receiving facility or  
 26 program for individuals residing in the area served by the receiving facility  
 27 or program who are being considered for referral to inpatient programs of the  
 28 state mental health system to determine whether or not the individual meets  
 29 the criteria for voluntary or involuntary admission and to determine whether  
 30 or not appropriate alternatives to institutionalization are available. Such  
 31 screening services shall be available to community organizations, agencies,  
 32 or private practitioners who are involved in making referrals to the state  
 33 mental health system;

34 (9) "Least restrictive appropriate setting" for treatment refers  
 35 to the available treatment setting which provides the person with the highest  
 36 likelihood of improvement or cure and which is not more restrictive of the

1 person's physical or social liberties than is necessary for the most  
 2 effective treatment of the person and for adequate protection against any  
 3 dangers which the person poses to himself or herself or others;

4 (10)(A) "Mental illness" refers to a substantial impairment of  
 5 emotional processes, or of the ability to exercise conscious control of one's  
 6 actions, or the ability to perceive reality or to reason, when the impairment  
 7 is manifested by instances of extremely abnormal behavior or extremely faulty  
 8 perceptions.

9 (B) It does not include impairment solely caused by:

10 (i) Epilepsy;

11 (ii) Mental retardation, unless the person is charged  
 12 with a crime and, due to mental retardation, is found by the circuit court  
 13 under § 5-2-310(b)(2)(D) to be dangerous and lack the capacity to understand  
 14 the proceedings against him or her, or to assist effectively in his or her  
 15 own defense because of mental retardation;

16 (iii) Continuous or noncontinuous periods of  
 17 intoxication caused by substances such as alcohol or drugs; or

18 (iv) Dependence upon or addiction to any substance  
 19 such as alcohol or drugs;

20 (11) "Physician" refers to a medical doctor licensed to practice  
 21 in Arkansas;

22 (12) "Psychosurgery" refers to those operations currently  
 23 referred to as lobotomy, psychiatric surgery, and behavioral surgery and all  
 24 other forms of brain surgery if the surgery is performed for the purpose of  
 25 the following:

26 (A) Modification or control of thoughts, feelings,  
 27 actions, or behavior rather than the treatment of a known and diagnosed  
 28 physical disease of the brain;

29 (B) Modification of normal brain function or normal brain  
 30 tissue in order to control thoughts, feelings, actions, or behavior; or

31 (C) Treatment of abnormal brain function or abnormal brain  
 32 tissue in order to modify thoughts, feelings, actions, or behavior when the  
 33 abnormality is not an established cause of those thoughts, feelings, actions,  
 34 or behavior;

35 (13) "Receiving facility or program" refers to an inpatient or  
 36 outpatient treatment facility or program which is designated within each

1 geographic area of the state by the ~~Deputy Director for the Division of~~  
2 ~~Mental Health Services~~ Department of Human Services to accept the  
3 responsibility for care, custody, and treatment of persons involuntarily  
4 admitted to the state mental health system.

5 (14) "State mental health system" refers to the Arkansas State  
6 Hospital, ~~the George W. Jackson Community Mental Health Center in Jonesboro,~~  
7 ~~Arkansas,~~ and any other facility or program licensed or certified by the  
8 Division of Mental Health Services;

9 (15) "Treatment" refers to those psychological, educational,  
10 social, chemical, medical, somatic, or other techniques designed to bring  
11 about rehabilitation of persons with mental illness. Treatment may be  
12 provided in inpatient and outpatient settings; and

13 (16) "Treatment plan" refers to an individualized written  
14 document developed by the treatment staff of the hospital or receiving  
15 facility or program which includes the following:

16 (A) A substantiated diagnosis in the terminology of the  
17 American Psychiatric Association's Diagnostic and Statistical Manual;

18 (B) Short-term and long-term treatment goals;

19 (C) Treatment programs, facilities, and activities to be  
20 utilized to achieve the treatment goals; and

21 (D) Methods for periodic review and revision of the  
22 treatment plan.

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