

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1281

5 By: Representative Ladyman
6 By: Senator Irvin
7

For An Act To Be Entitled

9 AN ACT TO AMEND AND UPDATE THE LAWS REGARDING
10 TREATMENT FOR INDIVIDUALS WITH DEVELOPMENTAL
11 DISABILITIES; TO ENSURE RESPECTFUL LANGUAGE IS USED
12 WITHIN THE ARKANSAS CODE REGARDING INDIVIDUALS WITH
13 DEVELOPMENTAL DISABILITIES; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 TO AMEND AND UPDATE THE LAWS REGARDING
17 TREATMENT FOR INDIVIDUALS WITH
18 DEVELOPMENTAL DISABILITIES; AND TO ENSURE
19 RESPECTFUL LANGUAGE IS USED REGARDING
20 INDIVIDUALS WITH DEVELOPMENTAL
21 DISABILITIES.
22
23
24

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

27 SECTION 1. Arkansas Code § 20-48-101(2), concerning the definition of
28 "developmental disability" regarding the treatment of individuals with
29 developmental disabilities, is amended to read as follows:

30 (2) "Developmental disability" means a disability of a person
31 that:

32 ~~(A)-(i)-(A)~~ Is attributable to:

33 (i) mental retardation Intellectual disability,
34 cerebral palsy, spina bifida, Down syndrome, epilepsy, or autism spectrum
35 disorder;

36 (ii) ~~Is attributable to any~~ Any other condition of a



1 person found to be closely related to ~~mental retardation~~ intellectual
 2 disability because the condition results in an impairment of general
 3 intellectual functioning or adaptive behavior similar to that of a person
 4 with ~~mental retardation~~ intellectual disability or requires treatment and
 5 services similar to that required for a person with ~~mental retardation~~
 6 intellectual disability; or

7 (iii) ~~Is attributable to dyslexia~~ Dyslexia resulting
 8 from a disability described in subdivision (2)(A)(i) ~~of this section~~ or
 9 subdivision (2)(A)(ii) of this section;

10 (B) Originates before the person attains twenty-two (22)
 11 years of age;

12 (C) Has continued or can be expected to continue
 13 indefinitely; and

14 (D) Constitutes a substantial ~~handicap~~ impairment to the
 15 person's ability to function without appropriate support services, including,
 16 but not limited to, planned recreational activities, medical services such as
 17 physical therapy and speech therapy, and ~~possibilities for~~ sheltered
 18 employment or job training;

19
 20 SECTION 2. Arkansas Code § 20-48-101(3), concerning the definition of
 21 "existing operations" regarding treatment of individuals with developmental
 22 disabilities, is amended to read as follows:

23 (3) "Existing operations" means the provision by a qualified
 24 nonprofit community provider of one (1) or more of the following services
 25 without regard to order:

26 (A) ~~A developmental day treatment clinic services~~
 27 ~~preschool program or adult development program~~ A licensed early intervention
 28 day treatment program or adult developmental day treatment program;

29 (B) A licensed developmental disability services group
 30 home in operation and recognized by the division on or before July 1, 1995;

31 (C) An intermediate care facility ~~for the mentally~~
 32 ~~retarded program with fifteen (15) beds or less~~ for individuals with
 33 intellectual disabilities with fifteen (15) beds or fewer beds; or

34 (D) An apartment complex in operation and serving
 35 individuals with developmental disabilities on or before January 1, 2008;

36

SECTION 3. Arkansas Code § 20-48-104 is amended to read as follows:

20-48-104. Intermediate Care Facility for ~~Mentally Retarded~~ Individuals with Intellectual Disabilities program – Administration.

(a) The operation of the community-based Intermediate Care Facility for ~~Mentally Retarded~~ Individuals with Intellectual Disabilities program ~~will~~ shall be subject to the oversight of a five-member committee composed of three (3) members of the House of Representatives to be appointed by the Speaker of the House of Representatives and two (2) members of the Senate to be appointed by the President Pro Tempore of the Senate.

(b) The committee shall provide oversight for the operation of the small intermediate care facility for ~~the mentally retarded~~ individuals with intellectual disabilities program and make recommendations, within the appropriate federal regulations and guidelines, to the Division of Developmental Disabilities Services and the Office of Long-Term Care to establish and clarify the mission, goals, levels of services, and scope of the program and to provide consistency in state ~~regulations~~ rules, guidelines, standards, and policies.

(c) The committee shall also make recommendations for adequate funding to ensure the fiscal integrity of the program to allow it to be operated pursuant to ~~the~~ state and federal rules, regulations, guidelines, standards, and policies.

SECTION 4. Arkansas Code § 20-48-201 is amended to read as follows:

20-48-201. Title.

This subchapter shall be known and may be cited as the “Arkansas ~~Mental Retardation~~ Developmental Disabilities Act”.

SECTION 5. Arkansas Code § 20-48-202 is amended to read as follows:

20-48-202. Definitions.

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

~~(1) “Board” means the Board of Developmental Disabilities Services;~~

~~(2) “Center” means a human development center;~~

~~(3)~~(1) “Community” means either region or locality;

~~(4)~~(2)(A) “Coordinate” means to ~~bring resources to bear~~ utilize resources in appropriate sequence and relationship to provide the proper

1 services for ~~retarded~~ individuals with developmental disabilities.

2 (B) "Coordinate" implies a working relationship with, but
3 not administrative authority over, public agencies providing ~~mental~~
4 ~~retardation~~ services to individuals with developmental disabilities;

5 (3) "Developmental disability" means the same as defined in §
6 20-48-603(1)(A);

7 ~~(5) "Director" means the Director of the Department of Human~~
8 ~~Services;~~

9 ~~(6) "Division" means the Division of Developmental Disabilities~~
10 ~~Services of the Department of Human Services or the appropriate division as~~
11 ~~determined by the Director of the Department of Human Services;~~

12 ~~(7)~~(4) "Individual" means a person without regard to
13 chronological age;

14 ~~(8)~~(5) "Locality" means a geographical area defined by the
15 ~~division~~ Division of Developmental Disabilities of the Department of Human
16 Services or the appropriate division as determined by the Director of the
17 Department of Human Services usually consisting of a municipality or county
18 but not excluding other areas within easy commuting distance;

19 ~~(9) "Mental retardation services" or "services" means all~~
20 ~~services pertaining to and incidental to the prevention, detection,~~
21 ~~diagnosis, evaluation, treatment, care, custody, education, training,~~
22 ~~rehabilitation, or supervision of retarded individuals;~~

23 ~~(10)~~(6) "Private organizations" means organizations, persons,
24 firms, individuals, corporations, or associations;

25 ~~(11)~~(7) "Public agencies" means all agencies, departments,
26 boards, institutions, commissions, officers, officials, political
27 subdivisions and agencies thereof, and school districts of this state;

28 ~~(12)~~(8) "Region" means a geographical area defined by the
29 division, usually consisting of all or parts of two (2) or more counties,
30 which is created to provide services for ~~retarded~~ individuals with
31 developmental disabilities when the services cannot be provided feasibly or
32 practically at the local level;

33 ~~(13) "Retarded" or "mentally retarded" or "retarded individual"~~
34 ~~means;~~

35 ~~(A) A person with a mental deficit requiring him or her to~~
36 ~~have special evaluation, treatment, care, education, training, supervision,~~

1 ~~or control in his or her home or community, or in a state institution for the~~
 2 ~~mentally retarded; or~~

3 ~~(B) A functionally retarded person who may not exhibit an~~
 4 ~~intellectual deficit on standard psychological tests but who, because of~~
 5 ~~other handicaps, functions as a retarded person. Not included is a person~~
 6 ~~whose primary problem is mental illness, emotional disturbance, physical~~
 7 ~~handicap, or sensory defect; and~~

8 (9) "Services for individuals with developmental disabilities"
 9 means all services pertaining to and incidental to the prevention, detection,
 10 diagnosis, evaluation, treatment, care, custody, education, training,
 11 rehabilitation, or supervision of individuals with developmental
 12 disabilities; and

13 ~~(14)(10)~~ "Superintendent" means the chief administrative officer
 14 assigned full-time to a human development center.

15
 16 SECTION 6. Arkansas Code § 20-48-205 is amended to read as follows:

17 20-48-205. Board of Developmental Disabilities Services – Powers and
 18 duties.

19 (a) The Board of Developmental Disabilities Services:

20 (1) Shall:

21 (A) Have have charge of the properties used for the
 22 purposes of the human development centers;

23 ~~(2) Shall exercise supervision over the appointment,~~
 24 ~~performance of duties which includes such matters as off-premises assignments~~
 25 ~~for educational or training purposes, removal of all employees, and the~~
 26 ~~fixing of their compensation~~

27 (B) Supervise:

28 (i) Appointment of employees;

29 (ii) Performance of duties by employees, including
 30 off-premises assignments for educational or training purposes;

31 (iii) Removal of employees; and

32 (iv) Fixing of employee compensation; and

33 ~~(3)(C) Shall exercise supervision over~~ Supervise
 34 expenditures of the human development centers; and

35 ~~(4)(2)~~ May:

36 (A) accept Accept and hold in trust real, personal, or

1 mixed property received by grant, gift, will, or otherwise;

2 ~~(5)(B) May make purchases of Purchase~~ land or receive
 3 grants or gifts of land and take deeds therefor in the name of the State of
 4 Arkansas;

5 ~~(6)(C) May accept Accept~~ grants or gifts of money from any
 6 source whatever and use the money for any of ~~its~~ the powers and purposes of of
 7 the board; and

8 ~~(7)(D) May take Take~~ all action and execute all documents
 9 necessary or desirable to carry out ~~its~~ the powers and purposes of the board.

10 (b) The board may make ~~such regulations respecting~~ rules regarding the
 11 care, custody, training, and discipline of ~~retarded~~ individuals with
 12 developmental disabilities who are in the human development centers or
 13 receiving ~~mental retardation~~ services for individuals with developmental
 14 disabilities and respecting the management of the human development centers
 15 and ~~their~~ the affairs as ~~it~~ the board may deem necessary or desirable to the
 16 proper performance of ~~its~~ the powers and purposes of the board.

17 (c) The board is prohibited from promulgating any rule ~~or regulation~~
 18 that would set the salary of any employee at the local level unless
 19 specifically required to do so by the federal government.

20
 21 SECTION 7. Arkansas Code § 20-48-206(b), concerning the powers and
 22 duties of the Board of Developmental Disabilities Services regarding human
 23 development centers, is amended to read as follows:

24 (b)(1) ~~In this regard, admissions~~ Admissions to the institutional
 25 facilities of the human development centers shall be on the basis of a
 26 determination by the board that:

27 (A) The individual ~~involved is mentally retarded~~ has a
 28 developmental disability;

29 (B) His or her parent or guardian has resided in the state
 30 not less than three (3) years prior to the date of the filing of the petition
 31 for his or her admission, or the individual involved is a dependent and a
 32 public charge or ward of the state or a political subdivision thereof;

33 (C) The welfare of the individual involved requires the
 34 special care, training, or education provided by institutional facilities of
 35 the human development center; and

36 (D) The board has adequate funds and institutional

1 facilities available for the care, training, or education of the individual.

2 (2)(A) ~~Also, the~~ The determination of whether an individual ~~is~~
3 ~~mentally retarded~~ has a developmental disability shall be made after there
4 has been an investigation ~~which shall include~~ that includes an examination by
5 an evaluation team appointed by the board.

6 (B) The team shall be composed of two (2) or more
7 physicians, psychiatrists, psychologists, or other persons found by the board
8 to be professionally qualified on the basis of training and experience in
9 ~~mental retardation~~ providing services for individuals with developmental
10 disabilities to make a determination as to whether the individual ~~involved is~~
11 ~~mentally retarded~~ has a developmental disability.

12
13 SECTION 8. Arkansas Code § 20-48-208(a) and (b), concerning the
14 license for facilities and institutions providing services for individuals
15 with developmental disabilities, are amended to read as follows:

16 (a) The Board of Developmental Disabilities Services shall:

17 (1) Regulate ~~regulate~~ the providing of ~~mental retardation~~
18 services for individuals with developmental disabilities by private
19 organizations and public agencies; ~~and~~

20 (2) ~~The board shall promulgate regulations~~ Promulgate rules
21 covering the issuance, suspension, and revocation of licenses and fixing the
22 standards for construction, reconstruction, maintenance, and operation of
23 institutions and facilities, or parts thereof, operated primarily for the
24 providing of ~~developmental disabilities~~ services for individuals with
25 developmental disabilities, unless the facilities or institutions in their
26 entirety are licensed by the Office of Long-Term Care.

27 (b) ~~No~~ A public agency or private organization shall not operate any
28 institution or facility for the provision of ~~mental retardation~~ services for
29 individuals with developmental disabilities unless ~~it~~ the public agency or
30 private organization has a license in effect.

31
32 SECTION 9. Arkansas Code § 20-48-209 is amended to read as follows:

33 20-48-209. Board of Developmental Disabilities Services – Planning and
34 implementation.

35 (a)(1) The Board of Developmental Disabilities Services is designated
36 as the single state agency for the purpose of full participation under any

1 federal act requiring the designation of a single state agency concerning
 2 planning, formulation, and implementation of programs, construction and
 3 operation of facilities, financing of facilities and programs, or otherwise
 4 pertaining to the obtaining and rendition of ~~mental-retardation~~ services for
 5 individuals with developmental disabilities.

6 (2) However, ~~this shall not be construed as depriving~~
 7 subdivision (a)(1) of this section does not deprive other public agencies of
 8 jurisdiction over or the right to plan for and control and operate programs
 9 that pertain to ~~mental-retardation~~ services for individuals with
 10 developmental disabilities but which fall within the primary jurisdiction of
 11 other public agencies such as programs administered by the Arkansas School
 12 for the Deaf, Arkansas School for the Blind, ~~State Board of Career Education~~
 13 Career Education and Workforce Development Board, State Board of Education,
 14 Department of Health, and the Department of Human Services.

15 (b)(1) The Board of Developmental Disabilities Services ~~is authorized~~
 16 ~~to~~ may coordinate the planning and implementation of ~~mental-retardation~~
 17 programs for individuals with developmental disabilities and institutional
 18 and community activities of all public agencies.

19 (2) However, ~~this shall not be construed as depriving~~
 20 subdivision (b)(1) of this section does not deprive other public agencies of
 21 jurisdiction over or the right to plan for and control and operate programs
 22 that pertain to ~~mental-retardation~~ services for individuals with
 23 developmental disabilities but which fall within the primary jurisdiction of
 24 other public agencies such as programs administered by the Arkansas School
 25 for the Deaf, Arkansas School for the Blind, ~~State Board of Career Education~~
 26 Career Education and Workforce Development Board, State Board of Education,
 27 Department of Health, and the Department of Human Services.

28 (c)(1) Effective planning and coordination is essential to the public
 29 interest.

30 (2) In order to achieve this to the fullest extent possible, the
 31 Board of Developmental Disabilities Services ~~is authorized to~~ may establish
 32 and promulgate ~~regulations fixing~~ rules concerning standards for ~~mental~~
 33 ~~retardation~~ programs and activities for individuals with developmental
 34 disabilities and ~~to~~ evaluate ~~mental-retardation~~ programs and activities for
 35 individuals with developmental disabilities conducted by ~~of~~ public agencies.

36

1 SECTION 10. Arkansas Code § 20-48-210 is amended to read as follows:
 2 20-48-210. Deputy Director of Division of Developmental Disabilities
 3 Services.

4 (a)(1) There is created the office of the Deputy Director of the
 5 Division of Developmental Disabilities Services of the Department of Human
 6 Services.

7 (2) The deputy director shall:

8 (A) Be appointed by and shall serve at the pleasure of the
 9 Board of Developmental Disabilities Services;

10 ~~(b)~~(B) ~~The deputy director shall be~~ Be a person of proven
 11 administrative ability and professional qualifications, preferably a Ph.D. or
 12 equivalent, but including at least a master's degree in psychology,
 13 education, social service, or other field of study approved by the board and
 14 shall have at least five (5) years' experience in ~~mental-retardation~~ services
 15 for individuals with developmental disabilities;

16 ~~(c)~~(C) ~~The deputy director shall be~~ Be the executive
 17 secretary of the board and shall maintain an official set of minutes of all
 18 board action; and

19 ~~(d)~~(D) ~~The deputy director shall be~~ Be the executive
 20 officer of the Division of Developmental Disabilities Services and shall
 21 operate and manage the division, subject to the control of the board.

22 ~~(e)~~(b) The board may delegate to the deputy director any powers of the
 23 board upon such terms and for such duration as the board shall specify.

24
 25 SECTION 11. Arkansas Code § 20-48-211 is amended to read as follows:
 26 20-48-211. Board of Developmental Disabilities Services – Community
 27 centers.

28 (a)(1) The Board of Developmental Disabilities Services is authorized
 29 to take the necessary action to establish and maintain, or to cause to be
 30 established and maintained, community centers, alone or together with public
 31 agencies or private organizations, at localities determined to be appropriate
 32 for the better providing of or for assistance in the providing of ~~mental~~
 33 ~~retardation~~ services for individuals with developmental disabilities ~~for in~~
 34 any region or locality ~~in~~ of the state.

35 (2) Community centers may be organized on a formal or informal
 36 basis as shall be determined to best suit the circumstances at any particular

1 region or locality, including without limitation organization under the
 2 provisions of the Arkansas Nonprofit Corporation Act, §§ 4-28-201 – 4-28-206
 3 and 4-28-209 – 4-28-224.

4 (b)(1) Within the limits of available funds, a program for furnishing
 5 ~~mental retardation~~ services for individuals with developmental disabilities
 6 shall be developed for each community center which may include a state
 7 grants-in-aid program.

8 (2) ~~In this regard, the board is authorized to~~ The board may
 9 promulgate ~~regulations~~ rules covering the establishment and operation of
 10 community centers, the formulation and implementation of ~~mental retardation~~
 11 programs and activities for individuals with developmental disabilities for
 12 community centers, and the funding of the programs and activities.

13 (c) The board is prohibited from promulgating any rule ~~or regulation~~
 14 that would set the salary of any employee of a community-based program unless
 15 specifically required to do so by the federal government.

16
 17 SECTION 12. Arkansas Code § 20-48-212 is amended to read as follows:

18 20-48-212. Amount requested for Arkansas Special Olympics, Inc.

19 (a) The Board of Developmental Disabilities Services, when preparing
 20 its biennial budget request for submission to the Governor and the
 21 Legislative Council, shall consult with Special Olympics Arkansas concerning
 22 the amount which is to be submitted as the request for each year of the
 23 forthcoming biennium for a grant to Special Olympics Arkansas.

24 (b) The amount ~~as may be~~ determined by Special Olympics Arkansas shall
 25 be submitted as the Division of Developmental Disabilities Services' request
 26 to the Governor and to the Legislative Council.

27
 28 SECTION 13. Arkansas Code § 20-48-301 is amended to read as follows:

29 20-48-301. Purpose.

30 ~~It is the~~ The purpose of this subchapter is to permit the Board of
 31 Developmental Disabilities Services, a division of the Department of Human
 32 Services, to cooperate with public agencies or private nonprofit
 33 organizations of adjoining states to provide services for residents of
 34 Arkansas ~~that are mentally retarded or developmentally disabled~~ with
 35 developmental disabilities.

1 SECTION 14. Arkansas Code § 20-48-302(a), concerning the authority to
2 participate in cooperative agreements, is amended to read as follows:

3 (a) Subject to the conditions and limitations contained in this
4 subchapter, the Board of Developmental Disabilities Services may enter into
5 agreements with public agencies, private nonprofit organizations, or
6 combinations thereof from adjoining states for the purpose of performing its
7 responsibility to the residents of Arkansas ~~who are mentally retarded or~~
8 ~~developmentally disabled~~ with developmental disabilities.

9
10 SECTION 15. Arkansas Code § 20-48-402 is amended to read as follows:
11 20-48-402. Penalties.

12 Any person who violates the following provisions ~~shall be~~ is guilty of
13 a misdemeanor and upon conviction shall be punished by a fine of not less
14 than fifty dollars (\$50.00) nor more than two hundred dollars (\$200) or by
15 imprisonment for not less than six (6) months, or both:

16 (1) Under the provisions of this subchapter, knowingly,
17 unlawfully, or improperly causes an individual to be adjudged mentally
18 ~~defective~~ incapacitated;

19 (2) Procures the escape from a human development center of an
20 individual committed to a human development center or knowingly conceals an
21 escaped individual of a human development center; or

22 (3) Unlawfully brings any firearm, deadly weapon, or explosive
23 into a human development center or onto its grounds or passes any thereof to
24 an individual committed to a human development center, employee, or officer
25 of a human development center.

26
27 SECTION 16. Arkansas Code § 20-48-403 is amended to read as follows:
28 20-48-403. Human development centers – Creation.

29 (a) There are created and there shall be maintained institutions for
30 the care, custody, treatment, and training of ~~mentally defective~~ individuals
31 with developmental disabilities to be known as human development centers.

32 (b) For the purposes of the institutions, the Board of Developmental
33 Disabilities Services is charged with the care and training of ~~mentally~~
34 ~~defective~~ individuals with developmental disabilities.

35
36 SECTION 17. Arkansas Code § 20-48-405(a), concerning the petition for

1 admission into a human development center, is amended to read as follows:

2 (a) A parent or guardian of ~~a mentally defective individual~~ an
3 individual with a developmental disability may file with the Board of
4 Developmental Disabilities Services a verified petition requesting that the
5 individual be admitted to the human development center.

6
7 SECTION 18. Arkansas Code § 20-48-413 is amended to read as follows:

8 20-48-413. ~~Emotionally disturbed mentally retarded individuals~~
9 Residents of Arkansas with developmental disabilities.

10 (a) The Board of Developmental Disabilities Services ~~is authorized to~~
11 may establish and operate an appropriate facility at such location in the
12 state as it shall determine for the care and treatment of ~~emotionally~~
13 ~~disturbed mentally retarded individuals~~ with developmental disabilities, and
14 persons with disorganized behavior, including hyperkinetic, hyperactive, or
15 aggressive behaviors who, because of their ~~problem~~ behavior, function as
16 ~~retarded individuals~~ an individual with a developmental disability.

17 (b) The board ~~is authorized to~~ may make ~~such rules and regulations~~
18 regarding eligibility for admission to the facility, care and treatment of
19 the individuals, discharge from and return to the facility, charges for the
20 maintenance, care, and training of individuals admitted to the facility, and
21 such other matters as the board shall deem necessary to carry out the most
22 effective program for the care and treatment of ~~emotionally disturbed~~
23 ~~mentally retarded individuals~~ residents of this state with developmental
24 disabilities.

25
26 SECTION 19. Arkansas Code § 20-48-416 is amended to read as follows:

27 20-48-416. Designation as state agency for carrying out federal ~~mental~~
28 ~~retardation acts~~ law.

29 (a) The Board of Developmental Disabilities Services is designated as
30 the single state agency for carrying out the purposes of any ~~act~~ law of
31 Congress pertaining to ~~mental retardation~~ developmental disabilities.

32 (b) The board ~~is authorized to~~ may take all action of every nature
33 whatever necessary or desirable in complying with the requirements of any
34 federal ~~act~~ law and accomplishing the purposes thereof, including, without
35 limitation:

36 (1) The receiving, handling, and disbursing of grants and funds

1 appropriated by any federal ~~act~~ law;

2 (2) The making of provisions to assure full consideration of all
3 aspects of services essential to planning for comprehensive state and
4 community action to ~~combat mental retardation~~ provide services for
5 individuals with developmental disabilities, including services in the fields
6 of education, employment, rehabilitation, welfare, health, and the law, and
7 services provided through community programs ~~for~~ and institutions for ~~the~~
8 ~~mentally retarded~~ individuals with developmental disabilities;

9 (3) The preparing and submitting of plans for expenditure of
10 such grants and funds and providing the assurance required by any federal ~~act~~
11 law as to carrying out the purposes of any federal act;

12 (4) The preparing and submitting of reports of the activities of
13 ~~the center~~ human development centers in carrying out the purposes of any
14 federal ~~act~~ law in such form and containing such information as may be
15 required by any federal ~~act~~ law and keeping ~~such~~ records and affording access
16 ~~thereto necessary~~ to the records in order to assure correctness and
17 verification of such reports as may be required by any federal ~~act~~ law;

18 (5) The providing for such fiscal control and fund accounting
19 procedures as may be necessary to assure proper disbursement of and
20 accounting for grants and funds paid to the human development center in
21 accordance with the requirements of any federal ~~act~~ law; and

22 (6) The doing of all things and taking of all action to carry
23 out any plans for expenditures of the grants and funds in accordance with and
24 for the accomplishment of the purposes of any federal ~~act~~ law.

25 (c)(1) This section shall be liberally construed.

26 (2) The enumeration of any object, purpose, power, manner,
27 method, and thing ~~shall not be deemed to~~ does not exclude like or similar
28 objects, purposes, powers, manners, methods, or things.

29 (3) This section ~~shall be construed as being~~ is supplementary to
30 any existing purposes and powers authorized to be accomplished by the human
31 development centers or the board.

32
33 SECTION 20. Arkansas Code § 20-48-603(1), concerning the definition of
34 "developmental disability" regarding the Location Act for Community Homes for
35 Developmentally Disabled Persons, is amended to read as follows:

36 (1)(A) "Developmental disability" means a disability of a person

1 that:

2 (i) Is attributable to ~~mental retardation~~
 3 intellectual disability, cerebral palsy, spina bifida, Down syndrome,
 4 epilepsy, or autism spectrum disorder;

5 (ii) Is attributable to any other condition of a
 6 person found to be closely related to ~~mental retardation~~ intellectual
 7 disability because ~~it~~ the condition results in impairment of general
 8 intellectual functioning or adaptive behavior similar to that of ~~mentally~~
 9 ~~retarded persons~~ a person with an intellectual disability or requires
 10 treatment and services similar to those required for ~~the persons~~ a person
 11 with an intellectual disability;

12 (iii) Is attributable to dyslexia resulting from
 13 ~~mental retardation~~ intellectual disability, cerebral palsy, epilepsy, or
 14 autism spectrum disorder; and

15 (iv) Has continued or can be expected to continue
 16 indefinitely.

17 (B) "Developmental disability" does not refer to other
 18 forms of mental disease or defect not defined in this section;

19

20 SECTION 21. Arkansas Code § 20-48-703 is amended to read as follows:

21 20-48-703. Eligibility.

22 (a)(1) Eligibility for services and appropriate placement in the least
 23 restrictive environment for individuals with developmental disabilities under
 24 any of the service models included in the state's Medicaid plan with the
 25 Centers for Medicare and Medicaid Services ~~of the United States Department of~~
 26 ~~Health and Human Services~~ or for services covered from state general revenue
 27 dollars shall be made by the interdisciplinary team composed in keeping with
 28 federal and state laws pertaining to individuals with special needs.

29 (2) ~~This Subdivision (a)(1) of this~~ section does not negate nor
 30 preclude the rights of individuals with developmental disabilities under
 31 existing federal and state laws.

32 (b)(1) Subject to approval by the Centers for Medicare and Medicaid
 33 Services, the Department of Human Services will accept an individualized
 34 family service plan or an individualized program plan developed in conformity
 35 with all applicable state and federal laws as prior authorization for
 36 Medicaid-covered therapies provided to persons with developmental

1 disabilities.

2 (2) Prior authorization does not preclude postpayment reviews or
3 other utilization control measures.

4 (c)(1) For individuals with developmental disabilities who, pursuant
5 to the diagnosis, evaluation, and assessments conducted by the
6 interdisciplinary team, in conformity with all applicable federal and state
7 laws, are found to fall within the eligibility guidelines adopted pursuant to
8 this subchapter, and where the individual's primary care physician,
9 independent of the service provider, serves as the gatekeeper and prescribes
10 ~~day treatment~~ early intervention day treatment or adult development day
11 treatment services, or both, ~~referred to as developmental day treatment~~
12 ~~services under the present developmental day treatment clinic services model,~~
13 prior approval is not required for up to five (5) hours of daily services.

14 (2) ~~Should~~ If the funding model for the ~~day treatment~~ early
15 intervention day treatment and adult development day treatment services ~~be is~~
16 changed in the state's Medicaid plan with the Centers for Medicare and
17 Medicaid Services, the five (5) hours per day shall remain the ~~floor~~ minimum
18 number of hours to afford those families who choose to keep their ~~disabled~~
19 child or adult with a disability in the community, thereby bearing a
20 considerable responsibility for the care and expenses related to the
21 treatment and care.

22

23 SECTION 22. Arkansas Code § 20-48-704(b), concerning the code system
24 of reimbursement for certain services, is amended to read as follows:

25 ~~(b) In the event that it is evident that the developmental day~~
26 ~~treatment clinic~~ If the early intervention day treatment or adult development
27 day treatment services codes, or both, ~~are will be~~ excluded by the Centers
28 for Medicare and Medicaid Services, the Division of Medical Services of the
29 Department of Human Services shall take all necessary steps to apply to the
30 administration for approval of a service model that will continue to provide
31 an array of community-based service options for children and adults
32 comparable to or greater than those under the present ~~developmental day~~
33 ~~treatment clinic~~ early intervention day treatment and adult development day
34 treatment services model.

35

36 SECTION 23. Arkansas Code § 20-48-812(a), concerning the definitions

1 regarding required criminal history records checks for service providers of
 2 services for individuals with developmental disabilities, is amended to read
 3 as follows:

4 (a) As used in this section:

5 (1) "Registry records check" means the review of one (1) or more
 6 database systems maintained by a state agency that contain information
 7 relative to a person's suitability for licensure or certification as a
 8 service provider or employment with a service provider to provide care as
 9 defined in § 20-38-101; and

10 (2) "Service provider" means any of the following:

11 (A) ~~An Alternative Community Services Waiver Program~~
 12 ~~provider certified by the Division of Developmental Disabilities Services of~~
 13 ~~the Department of Human Services~~ A Community and Employment Supports Services
 14 waiver provider;

15 (B) ~~An early intervention program provider certified by~~
 16 ~~the division~~ A First Connections provider; or

17 (C) ~~A nonprofit community program as defined by § 20-48-~~
 18 ~~101~~ An early intervention day treatment or adult developmental day treatment
 19 provider.

20
 21 SECTION 24. Arkansas Code § 20-48-901(1) and (2), concerning the
 22 definitions of "gross receipts" and "intermediate care facility for
 23 individuals with developmental disabilities", are amended to read as follows:

24 (1)(A) "Gross receipts" means all compensation paid to
 25 intermediate care facilities for individuals with ~~developmental~~ intellectual
 26 disabilities for services provided to residents, including without limitation
 27 client participation.

28 (B) "Gross receipts" does not include charitable
 29 contributions;

30 (2)(A) "Intermediate care facility for individuals with
 31 ~~developmental~~ intellectual disabilities" means a residential institution
 32 maintained for the care and training of persons with ~~developmental~~
 33 intellectual disabilities, ~~including without limitation mental retardation.~~

34 (B) ~~"Intermediate care facility for individuals with~~
 35 ~~developmental disabilities" has the same meaning as "intermediate care~~
 36 ~~facility for the mentally retarded" or "ICF/MR" under federal law.~~

1 ~~(C)~~(B) “Intermediate care facility for individuals with
 2 ~~developmental~~ intellectual disabilities” does not include:

- 3 (i) Offices of private physicians and surgeons;
- 4 (ii) Residential care facilities;
- 5 (iii) Assisted living facilities;
- 6 (iv) Hospitals;
- 7 (v) Institutions operated by the federal government;
- 8 (vi) Life care facilities;
- 9 (vii) Nursing facilities; or
- 10 (viii) A facility which is conducted by and for

11 those who rely exclusively upon treatment by prayer for healing in accordance
 12 with tenets or practices of a recognized religious denomination; and
 13

14 SECTION 25. Arkansas Code § 20-48-902 is amended to read as follows:

15 20-48-902. Calculation of provider fee.

16 (a)(1) There is levied a provider fee on intermediate care facilities
 17 for individuals with ~~developmental~~ intellectual disabilities to be calculated
 18 in accordance with this section.

19 (2)(A) The provider fee shall be an amount calculated by the
 20 Division of Medical Services of the Department of Human Services to produce
 21 an aggregate provider fee payment equal to six percent (6%) of the aggregate
 22 gross receipts of all intermediate care facilities for individuals with
 23 ~~developmental~~ intellectual disabilities.

24 (B) Aggregate provider fees shall not equal or exceed an
 25 amount measured on a state fiscal year basis that may cause a reduction in
 26 federal financial participation in Medicaid.

27 (b)(1)(A) The provider fee of an intermediate facility for individuals
 28 with ~~developmental~~ intellectual disabilities shall be payable in monthly
 29 payments.

30 (B) Each monthly payment shall be due and payable for the
 31 previous month by the thirtieth day of each month.

32 (2) The division shall seek approval from the Centers for
 33 Medicare and Medicaid Services to treat the provider fee of an intermediate
 34 care facility for individuals with ~~developmental~~ intellectual disabilities as
 35 an allowable cost for Medicaid reimbursement purposes.

36 (c) ~~No~~ An intermediate care facility for individuals with

1 ~~developmental~~ intellectual disabilities ~~shall be~~ is not guaranteed, expressly
 2 or otherwise, that any additional moneys paid to the intermediate care
 3 facility for individuals with ~~developmental~~ intellectual disabilities will
 4 equal or exceed the amount of its provider fee.

5 (d)(1) The division shall ensure that the rate of assessment of the
 6 provider fee established in this section maximizes federal funding to the
 7 fullest extent possible.

8 (2) If the division determines that the rate of assessment of
 9 the provider fee established in this section equals or exceeds the maximum
 10 rate of assessment that federal law allows without reduction in federal
 11 financial participation in Medicaid, the division shall lower the rate of
 12 assessment of the provider fee to a rate that maximizes federal funding to
 13 the fullest extent possible.

14
 15 SECTION 26. Arkansas Code § 20-48-904(a)(3) and (b), concerning the
 16 use of funds regarding intermediate care facilities, are amended to read as
 17 follows:

18 (3) The designated account moneys in the Arkansas Medicaid
 19 Program Trust Fund and the matching federal financial participation under
 20 Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., as it existed
 21 on January 1, 2009, shall be used only for:

22 (A) Continued operation of and rate increases for:

23 (i) Intermediate care facilities for individuals
 24 with ~~developmental~~ intellectual disabilities;

25 (ii) ~~Developmental day treatment clinic services~~
 26 ~~provided to persons with developmental disabilities by providers licensed by~~
 27 ~~the Division of Developmental Disabilities Services of the Department of~~
 28 ~~Human Services under this chapter~~ Early intervention day treatment and adult
 29 developmental day treatment service providers; and

30 (iii) Services provided to persons with
 31 developmental disabilities under the ~~Alternative Community Services Waiver~~
 32 ~~Program by providers certified to provide waiver services by the Division of~~
 33 ~~Developmental Disabilities Services of the Department of Human Services~~
 34 Community and Employment Supports Services waiver;

35 (B) Expansion of the ~~Alternative Community~~ Community and
 36 Employment Supports Services Waiver Program to serve more persons with

1 developmental disabilities than is approved under the waiver program ~~as of~~
 2 ~~March 1, 2009;~~

3 (C) The Division of Medical Services of the Department of
 4 Human Services; and

5 (D) Public guardianship of adults.

6 (b)(1) The designated account moneys in the Arkansas Medicaid Program
 7 Trust Fund from the provider fee on intermediate care facilities for
 8 individuals with ~~developmental~~ intellectual disabilities that are unused at
 9 the end of a fiscal year shall be carried forward.

10 (2) The designated account moneys in the Arkansas Medicaid
 11 Program Trust Fund from the provider fee on intermediate care facilities for
 12 individuals with ~~developmental~~ intellectual disabilities may not be used to
 13 supplant other local, state, or federal funds.

14
 15 SECTION 27. Arkansas Code § 20-48-1001(1) and (2), concerning the
 16 definitions of "Alternative Community Services Waiver Program" and "gross
 17 receipts" relating to the Alternative Community Services Waiver Program
 18 provider fee, are amended to read as follows:

19 (1) ~~"Alternative Community~~ Community and Employment Supports
 20 Services Waiver Program" means the home and community-based waiver program
 21 authorized by the Centers for Medicare and Medicaid Services under section
 22 1915(c) of the Social Security Act, 42 U.S.C. § 1396 et seq., and
 23 administered by the Division of Developmental Disabilities Services of the
 24 Department of Human Services;

25 (2)(A) "Gross receipts" means compensation paid to a provider
 26 for services provided through, or identical to those provided under, the
 27 ~~Alternative Community~~ Community and Employment Supports Services Waiver
 28 Program.

29 (B) "Gross receipts" does not include charitable
 30 contributions; and

31
 32 SECTION 28. Arkansas Code § 20-48-1002(a)(1), concerning the
 33 Alternative Community Services Waiver Program provider fee, is amended to
 34 read as follows:

35 (a)(1) There is imposed a provider fee on services provided through,
 36 or identical to those provided under, the ~~Alternative Community~~ Community and

1 Employment Supports Services Waiver Program to be calculated in accordance
 2 with this section.

3
 4 SECTION 29. Arkansas Code § 20-48-1002(c), concerning the Alternative
 5 Community Services Waiver Program provider fee, is amended to read as
 6 follows:

7 (c) A provider of services under the ~~Alternative Community~~ Community
 8 and Employment Supports Services Waiver Program shall not be guaranteed,
 9 expressly or otherwise, that any additional moneys paid to the provider for
 10 services under the ~~Alternative Community~~ Community and Employment Supports
 11 Services Waiver Program will equal or exceed the amount of its provider fee.
 12

13 SECTION 30. Arkansas Code § 20-48-1004(a)(3)(A), concerning the use of
 14 funds relating to the Alternative Community Services Waiver Program provider
 15 fee, is amended to read as follows:

16 (A) For the amount resulting from the first five and one-
 17 half percent (5.5%) of the provider fee:

18 (i) A minimum of fifty percent (50%) shall be used
 19 for the support and enhancement of services under the ~~Alternative Community~~
 20 Community and Employment Supports Services Waiver Program to persons with
 21 developmental disabilities; and

22 (ii) An amount not to exceed fifty percent (50%) may
 23 be used by the Division of Medical Services of the Department of Human
 24 Services; and
 25

26 SECTION 31. Arkansas Code §§ 20-48-1101 – 20-48-1103 are amended to
 27 read as follows:

28 20-48-1101. Legislative intent.

29 The intent of this subchapter is to avoid unnecessary expansion in
 30 Medicaid costs and services related to ~~child health management services and~~
 31 ~~developmental day treatment clinic~~ early intervention day treatment services
 32 for children or any successor program providing early intervention day
 33 treatment to children.
 34

35 20-48-1102. Definitions.

36 As used in this subchapter:

1 (1) "Accredited entity" means a corporate entity that:

2 (A) Has successfully completed an ongoing accreditation
3 process that is offered by a national accrediting organization and is+
4 related to the delivery of early intervention day treatment services; and

5 ~~(i) Related to the delivery of child health
6 management services;~~

7 ~~(ii) Related to the delivery of developmental day
8 treatment clinic services for children; or~~

9 ~~(iii) Related to the delivery of early intervention
10 day treatment services provided by a successor program; and~~

11 ~~(B) One (1) or more of the following:~~

12 ~~(i) Satisfies all certification criteria established
13 by the Department of Human Services for child health management services;~~

14 ~~(ii) Satisfies all licensure criteria for
15 developmental day treatment clinic services for children established by the
16 Division of Developmental Disabilities Services of the Department of Human
17 Services; or~~

18 ~~(iii) Satisfies all certification and licensure
19 criteria established by a regulatory entity governing any successor program;~~

20 (B) Satisfies all certification and licensure criteria
21 established by the Department of Human Services for the delivery of early
22 intervention day treatment services;

23 ~~(2) "Child health management services" means an array of clinic
24 services for children:~~

25 ~~(A) Intended to provide full medical multidiscipline
26 diagnosis, evaluation, and treatment of developmental delays in Medicaid
27 recipients; and~~

28 ~~(B) That is diagnostic, screening, evaluative, preventive,
29 therapeutic, palliative, or rehabilitative services, including early
30 intervention day treatment services;~~

31 ~~(3)(A) "Child health management services operated by an academic
32 medical center" means an academic medical center program specializing in
33 developmental pediatrics that is administratively staffed and operated by an
34 academic medical center and under the direction of a board-certified or
35 board-eligible developmental pediatrician.~~

36 ~~(B) An academic medical center consists of a medical~~

1 ~~school and its primary teaching hospitals and clinical programs.~~

2 ~~(C) For a child health management services program~~
 3 ~~operated by an academic medical center, services may be provided at different~~
 4 ~~sites operated by the academic medical center as long as the child health~~
 5 ~~management services program falls under one (1) administrative structure~~
 6 ~~within the academic medical center;~~

7 ~~(4) “Developmental day treatment clinic services for children”~~
 8 ~~means early intervention day treatment provided to children by a nonprofit~~
 9 ~~community program that:~~

10 ~~(A) Is licensed to provide center-based community services~~
 11 ~~by the Division of Developmental Disabilities Services; and~~

12 ~~(B) Serves as a quasi-governmental instrumentality of the~~
 13 ~~state by providing support and services to persons who have a developmental~~
 14 ~~disability or delay and would otherwise require support and services through~~
 15 ~~state-operated programs and facilities;~~

16 ~~(5)(A)(2)(A)~~ “Early intervention day treatment” means services
 17 provided by a pediatric day treatment program run by early childhood
 18 specialists, overseen by a physician, and serving children with developmental
 19 disabilities, developmental delays, or a medical condition that puts them at
 20 risk for developmental delay.

21 (B) Early intervention day treatment includes without
 22 limitation diagnostic, screening, evaluative, preventive, therapeutic,
 23 palliative, and rehabilitative and habilitative services, including speech,
 24 occupational, and physical therapies and any medical or remedial services
 25 recommended by a physician for the maximum reduction of physical or mental
 26 disability and restoration of the child to the best possible functional
 27 level.

28 ~~(C) Child health management services and developmental day~~
 29 ~~treatment clinic~~ Early intervention day treatment services or a successor
 30 program ~~constitute~~ constitutes the state’s early intervention day treatment
 31 program;

32 (3)(A) “Early intervention day treatment services operated by an
 33 academic medical center” means an academic medical center program
 34 specializing in developmental pediatrics that is administratively staffed and
 35 operated by an academic medical center and under the direction of a board-
 36 certified or board-eligible developmental pediatrician.

1 (B) An academic medical center consists of a medical
 2 school and its primary teaching hospitals and clinical programs.

3 (C) For an early intervention day treatment services
 4 program operated by an academic medical center, services may be provided at
 5 different sites operated by the academic medical center as long as the early
 6 intervention day treatment services program falls under one (1)
 7 administrative structure within the academic medical center;

8 ~~(6)~~(4) “Existing operations” means services provided by ~~a child~~
 9 ~~health management services program or a developmental day treatment clinic~~ an
 10 early intervention day treatment services program that has submitted a
 11 completed application to the Division of Medical Services of the Department
 12 of Human Services to serve as a Medicaid provider no later than July 1, 2013;

13 ~~(7)~~(5) “Medicaid” means the medical assistance program
 14 authorized under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et
 15 seq., and established under § 20-77-101 et seq., that provides for payments
 16 for medical goods or services on behalf of indigent families with dependent
 17 children and of ~~aged, blind, or disabled~~ individuals who are aged, blind, or
 18 disables and whose income and resources are insufficient to meet the cost of
 19 necessary medical services; and

20 ~~(8)~~ “National accrediting organization” includes without
 21 ~~limitation:~~

22 ~~(A) The Commission on the Accreditation of Rehabilitation~~
 23 ~~Facilities; or~~

24 ~~(B) Any other similar national accrediting organization~~
 25 ~~recognized by the Division of Developmental Disabilities Services; and~~

26 ~~(9)~~(6) “Successor program” means a program:

27 (A) That provides early intervention day treatment to
 28 children;

29 (B) That is created as a replacement for, combination of,
 30 or derived in whole or in part from the ~~child health management services~~
 31 ~~program and the developmental day treatment clinic~~ early intervention day
 32 treatment services program for children; and

33 (C) In which the for-profit and nonprofit providers from
 34 child health management services programs and developmental day treatment
 35 clinic services programs are eligible to participate.

36

1 20-48-1103. Prerequisites for certification and licensure.

2 (a)(1)~~(A)~~ Certification and licensure are required for operation as a
3 ~~child health management~~ an early intervention day treatment services program.

4 ~~(B)(2)~~ Certification shall be granted on a ~~county-wide~~
5 countrywide basis.

6 ~~(2)(b)~~ Before obtaining certification, a ~~child health management~~
7 an early intervention day treatment services program is required to apply to
8 and obtain the approval of the Division of Developmental Disabilities
9 Services of the Department of Human Services to implement new ~~child health~~
10 ~~management~~ early intervention day treatment services under the criteria
11 established under this subchapter.

12 ~~(3)(c)~~ A certified ~~child health management~~ early intervention
13 day treatment services program with existing operations on July 1, 2013,
14 shall not be required to obtain the approval of the division to continue
15 existing operations.

16 ~~(b)(1)(A)~~ Licensure from the division is required for operation of a
17 ~~developmental day treatment clinic for children.~~

18 ~~(B)~~ The division shall grant licensure on a ~~county-wide~~
19 ~~basis.~~

20 ~~(2)~~ Before obtaining licensure, a nonprofit community program
21 seeking to operate developmental day treatment clinic services for children
22 is required to apply to and obtain the approval of the division to implement
23 new developmental day treatment clinic services for children under the
24 criteria established under this subchapter.

25 ~~(3)~~ A licensed nonprofit community program providing
26 developmental day treatment clinic services for children with existing
27 operations on July 1, 2013, shall not be required to obtain the approval of
28 the division to continue existing operations.

29 ~~(c)(1)(A)~~ Licensure or certification from the regulatory authority
30 governing a successor program is required for operation as a successor
31 program.

32 ~~(B)~~ Licensure or certification shall be granted on a
33 ~~county-wide basis.~~

34 ~~(2)~~ Before obtaining licensure or certification, a successor
35 program is required to apply to and obtain the approval of the division to
36 implement new successor program services under the criteria established in

1 ~~this subchapter.~~

2 ~~(3) A successor program that was a certified child health~~
3 ~~management services program with existing operations on July 1, 2013, or a~~
4 ~~licensed nonprofit community program providing developmental day treatment~~
5 ~~clinic services for children with existing operations on July 1, 2013, shall~~
6 ~~not be required to obtain the approval of the division to continue operations~~
7 ~~that were in existence on July 1, 2013, but shall be subject to certification~~
8 ~~or licensure surveys and rules applicable to the successor program.~~

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
36