

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.

Act 645 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H3/19/07

A Bill

HOUSE BILL 2494

5 By: Representative Cooper
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO ADOPT NEW STANDARDS FOR EXPANDING
10 COMMUNITY-BASED DEVELOPMENTAL DISABILITIES
11 SERVICES AND FOR IMPLEMENTING NEW DEVELOPMENTAL
12 DISABILITIES SERVICES; AND FOR OTHER PURPOSES.
13

14 **Subtitle**

15 TO ADOPT NEW STANDARDS FOR EXPANDING
16 COMMUNITY-BASED DEVELOPMENTAL
17 DISABILITIES SERVICES AND FOR
18 IMPLEMENTING NEW DEVELOPMENTAL
19 DISABILITIES SERVICES.
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 *SECTION 1. Arkansas Code § 20-48-101 is amended to read as follows:*
25 *20-48-101. Definitions.*

26 *As used in this chapter, ~~unless the context otherwise requires:~~*

27 *(1)(A) "Accredited nonprofit entity" means a nonprofit entity*
28 *that:*

29 *(i) Has successfully completed an ongoing*
30 *accreditation process that is related to the delivery of services to persons*
31 *with developmental disabilities and is offered by a national accrediting*
32 *organization;*

33 *(ii) Satisfies the appropriate licensure criteria*
34 *established by Division of Developmental Disabilities of the Department of*
35 *Health and Human Services; and*



1 (iii) Is positioned to provide nonresidential
 2 services to persons with developmental disabilities upon licensure by the
 3 division because no existing nonprofit community provider is interested in
 4 providing the specific category of nonresidential services to persons with
 5 developmental disabilities that has been identified by the division as
 6 underserved.

7 (B) As used in subdivision (1)(A)(i), “national
 8 accrediting organization” includes without limitation:

9 (i) The Commission for the Accreditation of
 10 Rehabilitation Facilities; or

11 (ii) Any other similar national accrediting
 12 organization recognized by the division;

13 ~~(1)(2)~~ “Developmental disability” means a disability of a person
 14 ~~which that:~~

15 (A)(i) Is attributable to mental retardation, cerebral
 16 palsy, epilepsy, or autism;

17 (ii) Is attributable to any other condition of a
 18 person found to be closely related to mental retardation because ~~is~~ the
 19 condition results in an impairment of general intellectual functioning or
 20 adaptive behavior similar to ~~those of mentally retarded persons~~ that of a
 21 person with mental retardation or requires treatment and services similar to
 22 ~~those required for such persons~~ that required for a person with mental
 23 retardation; or

24 (iii) Is attributable to dyslexia resulting from a
 25 disability described in ~~subdivision (1)(A)~~ subdivision (2)(A)(i) of this
 26 section or subdivision (2)(A)(ii) of this section;

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

29 (C) Has continued or can be expected to continue
 30 indefinitely; and

31 (D) Constitutes a substantial handicap to the person’s
 32 ability to function without appropriate support services, including, but not
 33 limited to, planned recreational activities, medical services such as
 34 physical therapy and speech therapy, and possibilities for sheltered
 35 employment or job training;

36 ~~(2) “Developmentally disabled person” means a person with a~~

1 ~~developmental disability; and~~

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

5 (A) A developmental day treatment clinic services
6 preschool program or adult development program;

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

10 (C) An intermediate care facility for the mentally
11 retarded program with fifteen (15) beds or less; or

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

14 ~~(3)(4)~~ "Human development center" means an institution
15 maintained for the care and training of persons with developmental
16 disabilities;

17 (5)(A) "Nonprofit community program" means a program that
18 provides nonresidential services to persons with developmental disabilities
19 or nonresidential and residential services to persons with developmental
20 disabilities and is licensed by the division.

21 (B) A nonprofit community program serves as a quasi-
22 governmental instrumentality of the state by providing support and services
23 to persons who have a developmental disability or delay and would otherwise
24 require support and services through state-operated programs and facilities;
25 and

26 (6)(A) "Qualified nonprofit community program" means a nonprofit
27 community program that holds a valid nonprofit community program license
28 issued by the division.

29 (B) "Qualified nonprofit community program" includes:

30 (i) A nonprofit community program that holds a
31 license that was issued by the division on or before February 1, 2007; and

32 (ii) An accredited nonprofit entity that is awarded
33 a license as a nonprofit community program by the division after February 1,
34 2007.

35
36 SECTION 2. Arkansas Code § 20-48-103 is amended to read as follows:

1 20-48-103. Purpose – Use of certain funds.

2 It is the specific recommendation of the General Assembly that the
3 Division of Developmental Disabilities Services utilize Title XIX, social
4 services block grant, and state grants-in-aid funds available to ~~community~~
5 ~~programs~~ nonprofit community programs to seek to achieve the following goals:

6 (1) Providing for operation of ~~community-based residential~~
7 ~~programs~~ nonprofit community programs which the state agency encouraged the
8 ~~community programs~~ nonprofit community programs to build with nonstate funds;

9 (2) Determination by the division of reasonable costs for the
10 services provided by ~~community-based programs~~ nonprofit community programs
11 ~~with consideration of regional expense variations and funding so that the~~
12 ~~state shall provide a minimum of ninety percent (90%) of the reasonable~~
13 ~~costs, with the community-based program responsible for no more than ten~~
14 ~~percent (10%) of the costs; and~~

15 (3) That the state not reduce reasonable cost funding of
16 ~~community-based programs~~ nonprofit community programs ~~or require~~
17 ~~reimbursement from community-based programs if the program matches at a rate~~
18 ~~of at least ten percent (10%) of the funding provided by the division.~~

19
20 SECTION 3. Arkansas Code § 20-48-105 is amended to read as follows:

21 20-48-105. ~~Community-based service providers~~ Nonprofit community programs –
22 Extension or expansion of services.

23 ~~(a)(1) In the event that existing services now funded from state or~~
24 ~~federal funds are extended to unserved or underserved areas of the state or~~
25 ~~in the event that new services are made available to be funded from state or~~
26 ~~federal funds, the existing nonprofit community programs licensed by the~~
27 ~~Division of Developmental Disabilities Services shall be granted an~~
28 ~~opportunity to make application to expand their service base to unserved or~~
29 ~~underserved areas or shall be granted an opportunity to make application to~~
30 ~~offer new services in their existing service area.~~

31 ~~(2) In areas in which the division determines that state or~~
32 ~~federal funding for new or expanded services is to be available, it shall~~
33 ~~provide notice of its intent to provide the services to existing providers in~~
34 ~~the area and to the general public.~~

35 ~~(3) Before licensing new service providers in an area, the~~
36 ~~division shall determine in writing that existing service providers are not~~

~~1 qualified or are unable or unwilling to extend services to unserved or
2 underserved areas or to provide new or expanded services.~~

~~3 (4) Nothing in this section shall restrict the division's
4 discretion to award new or expanded services to the existing community based
5 service providers making application pursuant to this section.~~

~~6 (b) The intent of this section is to avoid unnecessary duplication of
7 costs and services in the extension or expansion of services.~~

~~8 (c) Nonprofit community programs licensed by the division are quasi-
9 governmental instrumentalities of the state which provide support and
10 services to individuals who have a developmental disability or delay who
11 would otherwise require support and services in facilities owned and operated
12 by the State of Arkansas.~~

13 (a)(1) The intent of this section is to avoid unnecessary duplication
14 of costs and services in the extension or expansion of nonresidential
15 services to persons with developmental disabilities.

16 (2) A designation by the Division of Developmental Disabilities
17 of the Department of Health and Human Services that a county is underserved
18 with regard to a specific category of nonresidential services to persons with
19 developmental disabilities establishes that an extension or expansion of
20 nonresidential services to persons with developmental disabilities in the
21 underserved county is necessary.

22 (b)(1)(A) The division shall not issue a new license for operation of
23 a nonprofit community program or approve an application from a nonprofit
24 community program to implement additional nonresidential services to persons
25 with developmental disabilities that are not currently offered by the
26 nonprofit community program unless the division has determined that:

27 (B)(i) A county of the state is underserved with regard to
28 a specific category of nonresidential services currently offered to persons
29 with developmental disabilities and currently funded from available state or
30 federal funds; or

31 (ii)(a) A county of the state is underserved with
32 regard to new services not currently available to persons with developmental
33 disabilities and new services should be made available to persons with
34 developmental disabilities; and

35 (b) State or federal funds are available in
36 amounts necessary to support the delivery of new services not currently

1 available to persons with developmental disabilities.

2 (2)(A) The division shall provide written notice by certified
3 mail of its designation under subdivision (b)(1) of this section to all
4 nonprofit community programs with existing operations in the county
5 designated by the division as underserved.

6 (B) If nonprofit community programs with existing
7 operations in the county that do not currently offer the specific category of
8 nonresidential services identified by the division as underserved determine
9 not to extend or expand the identified nonresidential service to persons with
10 developmental disabilities in the underserved county, the division shall
11 provide written notice by certified mail of its designation under subdivision
12 (b)(1) of this section to all nonprofit community programs in the remainder
13 of the state.

14 (C) If all nonprofit community programs in the remainder
15 of the state determine not to extend or expand the identified nonresidential
16 service to persons with developmental disabilities in the underserved county,
17 the division shall provide notice to the general public in a newspaper of
18 statewide general circulation.

19 (c) In granting an approval under this section, the division shall
20 give approval in the following order of preference:

21 (1) A qualified nonprofit community program with existing
22 operations in the county that does not currently offer the specific category
23 of nonresidential services to persons with developmental disabilities
24 identified by the division as underserved;

25 (2) A qualified nonprofit community program from another county
26 in the state;

27 (3) An accredited nonprofit entity in the underserved county;

28 (4) An accredited nonprofit entity from another county in the
29 state; and

30 (5) An accredited nonprofit entity from outside the state.

31 (d)(1)(A) A license from the division is required for operation of a
32 nonprofit community program.

33 (B) A qualified nonprofit community program is required to
34 apply to and obtain the approval of the division to implement additional
35 nonresidential services to persons with developmental disabilities that are
36 not currently offered by the qualified nonprofit community program.

1 (2)(A) If an application is approved, the division shall issue a
2 new license or service expansion approval if it finds that the proposed
3 nonresidential service expansion meets the criteria for approval established
4 by the division.

5 (B) If the application is denied, the division shall send
6 written notice of the denial to the applicant that sets forth the criteria
7 that the proposed nonresidential service expansion failed to meet.

8
9 SECTION 2. Arkansas Code 20-48-701 is amended to read as follows:
10 20-48-701. Finding.

11 The General Assembly finds that the State of Arkansas contracts with
12 nonprofit ~~community-based~~ programs serving individuals with developmental
13 disabilities as quasi-governmental instrumentalities of the state in order to
14 provide a service that the state would otherwise provide for this population
15 through state-operated programs and facilities.

16
17 /s/ Cooper

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19 APPROVED: 3/28/2007