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A Bill

HOUSE BILL 1211

4
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6 Hickerson, Hobbs, Hopper, Lampkin, Murdock, Post, Ratliff, F. Smith, G. Smith, T. Steele, T.
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For An Act To Be Entitled

9
10 AN ACT TO CLARIFY THE DEFINITION OF A QUALIFYING
11 DIAGNOSIS THAT ESTABLISHES CATEGORICAL ELIGIBILITY
12 FOR DEVELOPMENTAL DISABILITY SERVICES; AND FOR OTHER
13 PURPOSES.
14

Subtitle

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16
17 AN ACT TO CLARIFY THE DEFINITION OF A
18 QUALIFYING DIAGNOSIS THAT ESTABLISHES
19 CATEGORICAL ELIGIBILITY FOR DEVELOPMENTAL
20 DISABILITY SERVICES.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25
26 SECTION 1. Arkansas Code § 4-88-201, is amended to read as follows:
27 4-88-201. Definitions.

28 (a) "Elder person" means a person who is sixty (60) years of age or
29 older.

30 (b) "Disabled person" means a person who has a physical or mental
31 impairment which substantially limits one (1) or more of such person's major
32 life activities.

33 (1) As used in this subsection, "physical or mental impairment"
34 means any of the following:

35 (A) Any physiological disorder or condition, cosmetic
36 disfigurement, or anatomical loss substantially affecting one (1) or more of



1 the following body systems: neurological; musculoskeletal; special sense
2 organs; respiratory, including speech organs; cardiovascular; reproductive;
3 digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

4 (B) Any mental or psychological disorder, such as mental
5 retardation, organic brain syndrome, emotional or mental illness, and
6 specific learning disabilities.

7 (2) The term "physical or mental impairment" includes, but is
8 not limited to, such diseases and conditions as orthopedic, visual, speech
9 and hearing impairment, cerebral palsy, spina bifida, Down syndrome,
10 epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease,
11 diabetes, mental retardation, and emotional illness.

12 (c) "Substantially limits" means substantially interferes with or
13 affects over an extended period of time. Minor temporary ailments or injuries
14 shall not be considered physical or mental impairments which substantially
15 limit a person's major life activities. Examples of minor temporary ailments
16 are colds, influenza, sprains, or minor injuries.

17 (d) "Major life activities" include functions such as caring for
18 oneself, performing manual tasks, walking, seeing, hearing, speaking,
19 breathing, learning, and working.

20
21 SECTION 2. Arkansas Code § 20-48-101 is amended to read as follows:

22 20-48-101. Definitions.

23 As used in this chapter:

24 (1)(A) "Accredited nonprofit entity" means a nonprofit entity
25 that:

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

30 (ii) Satisfies the appropriate licensure criteria
31 established by the Division of Developmental Disabilities Services of the
32 Department of Human Services; and

33 (iii) Is positioned to provide nonresidential
34 services to persons with developmental disabilities upon licensure by the
35 division because no existing nonprofit community provider is interested in
36 providing the specific category of nonresidential services to persons with

1 developmental disabilities that has been identified by the division as
2 underserved.

3 (B) As used in subdivision (1)(A)(i) of this section,
4 “national accrediting organization” includes without limitation:

5 (i) The Commission on Accreditation of
6 Rehabilitation Facilities; or

7 (ii) Any other similar national accrediting
8 organization recognized by the division;

9 (2) “Developmental disability” means a disability of a person
10 that:

11 (A)(i) Is attributable to mental retardation, cerebral
12 palsy, spina bifida, Down syndrome, epilepsy, or autism;

13 (ii) Is attributable to any other condition of a
14 person found to be closely related to mental retardation because the
15 condition results in an impairment of general intellectual functioning or
16 adaptive behavior similar to that of a person with mental retardation or
17 requires treatment and services similar to that required for a person with
18 mental retardation; or

19 (iii) Is attributable to dyslexia resulting from a
20 disability described in subdivision (2)(A)(i) of this section or subdivision
21 (2)(A)(ii) of this section;

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

24 (C) Has continued or can be expected to continue
25 indefinitely; and

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

31 (3) “Existing operations” means the provision by a qualified
32 nonprofit community provider of one (1) or more of the following services
33 without regard to order:

34 (A) A developmental day treatment clinic services
35 preschool program or adult development program;

36 (B) A licensed developmental disability services group

1 home in operation and recognized by the division on or before July 1, 1995;

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

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

6 (4) "Human development center" means an institution maintained
7 for the care and training of persons with developmental disabilities;

8 (5)(A) "Nonprofit community program" means a program that
9 provides nonresidential services to persons with developmental disabilities
10 or nonresidential and residential services to persons with developmental
11 disabilities and is licensed by the division.

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

17 (6)(A) "Qualified nonprofit community program" means a nonprofit
18 community program that holds a valid nonprofit community program license
19 issued by the division.

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

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

23 (ii) An accredited nonprofit entity that is awarded
24 a license as a nonprofit community program by the division after February 1,
25 2007.

26
27 SECTION 3. Arkansas Code § 20-48-603 is amended to read as follows:
28 20-48-603. Definitions.

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

30 (1)(A) "Developmental disability" means a disability of a person
31 which:

32 (i) Is attributable to mental retardation, cerebral
33 palsy, spina bifida, Down syndrome, epilepsy, or autism;

34 (ii) Is attributable to any other condition of a
35 person found to be closely related to mental retardation because it results
36 in impairment of general intellectual functioning or adaptive behavior

1 similar to those of mentally retarded persons or requires treatment and
 2 services similar to those required for the persons;

3 (iii) Is attributable to dyslexia resulting from
 4 mental retardation, cerebral palsy, epilepsy, or autism; and

5 (iv) Has continued or can be expected to continue
 6 indefinitely.

7 (B) "Development disability" does not refer to other forms
 8 of mental disease or defect not defined in this section;

9 (2) "Developmentally disabled person" means a person with a
 10 developmental disability as defined in this section;

11 (3) "Division" means the Division of Developmental Disabilities
 12 Services of the Department of Human Services or the staff of the division
 13 where the context so indicates;

14 (4)(A) "Family Home I" means a community-based residential home
 15 licensed by the division that provides room and board, personal care,
 16 habilitation services, and supervision in a single-family environment for not
 17 more than eight (8) developmentally disabled persons; and

18 (B) "Family Home II" means a community-based residential
 19 home licensed by the division that provides room and board, personal care,
 20 habilitation services, and supervision in a multi-family environment for more
 21 than eight (8), but fewer than sixteen (16), developmentally disabled
 22 persons;

23 (5) "Permitted use" means a use by right which is authorized in
 24 residential zoning districts; and

25 (6) "Political subdivision" means a county or municipal
 26 corporation and includes any boards, commissions, or councils governing land
 27 use on behalf of the political subdivision.

28
 29 SECTION 4. Arkansas Code § 21-15-101 is amended to read as follows:

30 21-15-101. Definitions.

31 As used in this subchapter:

32 (1) "Applicant" means a person applying for employment with a
 33 state agency;

34 (2) "Central registry check" means a review of the databases of
 35 the Child Maltreatment Central Registry, the Adult and Long-Term Care
 36 Facility Resident Maltreatment Central Registry, and the Certified Nursing

1 Assistant/Employment Clearance Registry maintained by the Office of Long-Term
2 Care of the Division of Medical Services of the Department of Human Services
3 pursuant to 42 C.F.R. § 483.156 and § 20-10-203;

4 (3) "Child" means a minor under eighteen (18) years of age;

5 (4) "Criminal history check" means a criminal history report
6 produced by the Identification Bureau of the Department of Arkansas State
7 Police;

8 (5) "Designated position" means a position in which a person is
9 employed by a state agency to provide care, supervision, treatment, or any
10 other services to the elderly, to mentally ill or developmentally disabled
11 persons, to persons with mental illnesses, or to children who reside in any
12 state-operated facility or a position in which the applicant or employee will
13 have direct contact with a child or a person who is elderly, mentally ill, or
14 developmentally disabled;

15 (6) "Designated financial or information technology position"
16 means a position designated by a director of a division or office within the
17 Department of Human Services in which the person placed in the position:

18 (A) Has the authority or capability via computer access or
19 otherwise to receive payments or to issue, initiate, or approve a contract,
20 grant, warrant, payment, or procurement in any form;

21 (B) Approves security access to information systems;

22 (C) Authenticates and configures user security access to
23 information systems;

24 (D) Acts in the capacity of information technology
25 network, application, or system administrator;

26 (E) Manages or directs information technology network,
27 application, or system administrators; or

28 (F) Develops, designs, programs, or maintains information
29 technology networks, applications, or systems;

30 (7) "Developmentally disabled person" means a person with a
31 disability that is attributable to:

32 (A) Mental retardation, cerebral palsy, spina bifida, Down
33 syndrome, epilepsy, or autism;

34 (B) Dyslexia resulting from a disability associated with
35 mental retardation, cerebral palsy, epilepsy, or autism; or

36 (C) Any other condition found to be closely related to

1 mental retardation because it results in an impairment of general
2 intellectual functioning or adaptive behavior similar to those of mentally
3 retarded persons or requires treatment and services similar to those required
4 for mentally retarded persons;

5 (8) "Direct contact" means the ability to interview, question,
6 examine, interact with, talk with, or communicate with a child without being
7 in the physical presence of a person other than the child;

8 (9) "Elderly" means persons sixty-five (65) years of age or
9 older;

10 (10)(A) "Mentally ill persons" means persons who suffer from a
11 substantial impairment of emotional processes, or of the ability to exercise
12 conscious control of their actions, or of the ability to perceive reality or
13 to reason when the impairment is manifested in instances of extremely
14 abnormal behavior or extremely faulty perceptions.

15 (B) "Mentally ill persons" does not include persons whose
16 impairment is solely caused by epilepsy, continuous or noncontinuous periods
17 of intoxication caused by substances such as alcohol or drugs, or dependence
18 upon or addiction to any substance such as alcohol or drugs; and

19 (11)(A) "State agency" means any agency, authority, board,
20 bureau, commission, council, department, office, or officer of the state
21 receiving an appropriation by the General Assembly.

22 (B) "State agency" does not include municipalities,
23 townships, counties, school districts, and state-supported institutions of
24 higher learning.

25

26 SECTION 5. Arkansas Code § 26-51-503 is amended to read as follows:

27 26-51-503. Support of a child with a developmental disability.

28 (a) In addition to the state income tax credit permitted by § 26-51-
29 501(a) and (b), any taxpayer in this state who is maintaining, supporting,
30 and caring for an individual with a diagnosis of a developmental disability
31 in the taxpayer's home ~~shall be~~ is permitted, in addition to all other income
32 tax credits, a credit of five hundred dollars (\$500) for each income year for
33 that individual.

34 (b)(1) Any person wishing to take advantage of this tax credit must
35 have certification by a licensed physician, licensed psychologist, or
36 licensed psychological examiner that the individual has a diagnosis of a

1 developmental disability.

2 (2) The certification shall be valid for five (5) years for
3 income tax purposes.

4 (3) If any person wishes to take advantage of this tax credit
5 after using the certification for five (5) income years, the person must have
6 the individual reevaluated by a licensed physician, licensed psychologist, or
7 licensed psychological examiner for recertification.

8 (4) The recertification process shall be valid for another five
9 (5) years for income tax purposes.

10 (c) As used in this section:

11 (1) "Diagnosis of a developmental disability" means a disability
12 of a person that:

13 (A) Is attributable to:

14 (i) An intellectual disability, cerebral palsy,
15 epilepsy, spina bifida, Down syndrome or autism;

16 (ii) Another condition of the person found to be
17 closely related to an intellectual disability because the condition results
18 in an impairment of general intellectual functioning or adaptive behavior
19 similar to that of a person with an intellectual disability or requires
20 treatment and services similar to that required for a person with an
21 intellectual disability; or

22 (iii) Dyslexia resulting from a disability or
23 condition described in subdivision (c)(1)(A)(i) or (c)(1)(A)(ii) of this
24 section;

25 (B) Originates before the person reaches twenty-two (22)
26 years of age;

27 (C) Has continued or can be expected to continue
28 indefinitely; and

29 (D) Constitutes a substantial handicap to the person's
30 ability to function without appropriate support services, including without
31 limitation:

32 (i) Planned recreational activities;

33 (ii) Medical services such as physical therapy and
34 speech therapy; and

35 (iii) Possibilities for sheltered employment or job
36 training; and

