

1 State of Arkansas *As Engrossed: H3/8/13 S4/4/13*

2 89th General Assembly

A Bill

3 Regular Session, 2013

HOUSE BILL 1746

4

5 By: Representatives Clemmer, Ferguson, Magie

6 By: Senator Bledsoe

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For An Act To Be Entitled

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AN ACT TO REQUIRE A MENTAL HEALTH SERVICES PROVIDER

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TO WARN A LAW ENFORCEMENT AGENCY OF A CREDIBLE THREAT

11

BY A PATIENT; AND FOR OTHER PURPOSES.

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Subtitle

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TO REQUIRE A MENTAL HEALTH SERVICES

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PROVIDER TO WARN A LAW ENFORCEMENT AGENCY

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OF A CREDIBLE THREAT BY A PATIENT.

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

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SECTION 1. Arkansas Code Title 20, Chapter 45, is amended to add an additional subchapter to read as follows:

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Subchapter 2. Mental Health Services Provider Duty to Warn.

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20-45-201. Definitions

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As used in this subchapter:

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(1) "Licensed certified social worker" means a licensed

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certified social worker licensed by the Arkansas Social Work Licensing Board under § 17-103-306(c) who provides mental health services;

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(2) "Licensed marriage and family therapist" means a licensed

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marriage and family therapist licensed by the Arkansas Board of Examiners in Counseling under § 17-27-303 or 17-27-304 who provides mental health

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services;

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(3) "Licensed professional counselor" means a licensed

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professional counselor licensed by the Arkansas Board of Examiners in



1 Counseling under § 17-27-301 who provides mental health services;

2 (4) "Mental health services provider" means a licensed certified
3 social worker, licensed marriage and family therapist, licensed professional
4 counselor, physician, psychologist, or registered nurse who provides mental
5 health services;

6 (5) "Patient" means an individual with whom a mental health
7 services provider has established a patient care provider relationship;

8 (6) "Physician" means a physician licensed by the Arkansas State
9 Medical Board who provides mental health services;

10 (7) "Psychologist" means a psychologist licensed by the Arkansas
11 Psychology Board who provides mental health services; and

12 (8)(A) "Registered nurse" means a registered nurse licensed by
13 the Arkansas State Board of Nursing who provides mental health services.

14 (B) "Registered nurse" includes an advanced practice
15 nurse.

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17 20-45-202. Duty of mental health services provider to take precautions
18 against threatened patient violence – Duty to warn.

19 (a) A mental health services provider, hospital, facility, community
20 mental health center, or clinic is not subject to liability, suit, or a claim
21 under § 19-10-204 on grounds that a mental health services provider did not
22 prevent harm to an individual or to property caused by a patient if:

23 (1) The patient communicates to the mental health services
24 provider an explicit and imminent threat to kill or seriously injure a
25 clearly or reasonably identifiable potential victim or to commit a specific
26 violent act or to destroy property under circumstances that could easily lead
27 to serious personal injury or death and the patient has an apparent intent
28 and ability to carry out the threat; and

29 (2) The mental health services provider takes the precautions
30 specified in subsection (b) of this section in an attempt to prevent the
31 threatened harm.

32 (b) A duty owed by a mental health services provider to take
33 reasonable precautions to prevent harm threatened by a patient is discharged,
34 as a matter of law, if the mental health services provider in a timely
35 manner:

36 (1) Notifies:

1 (A) A law enforcement agency in the county in which
2 the potential victim resides;

3 (B) A law enforcement agency in the county in which the
4 patient resides; or

5 (C) The Department of Arkansas State Police; or

6 (2) Arranges for the patient's immediate voluntary or
7 involuntary hospitalization.

8 (c)(1) If a patient who is under eighteen (18) years of age threatens
9 to commit suicide or serious or life-threatening bodily harm upon himself or
10 herself, the mental health services provider shall make a reasonable effort
11 to communicate the threat to the patient's custodial parent.

12 (2) If the mental health services provider is unable to contact
13 the patient's custodial parent within a reasonable time, the mental health
14 services provider shall make a reasonable effort to communicate the threat to
15 the patient's noncustodial parent or legal guardian.

16 (d) A mental health services provider, hospital, facility, community
17 mental health center, or clinic is not subject to liability, suit, or claim
18 under § 19-10-204 for disclosing a confidential communication made by or
19 relating to a patient if the patient has explicitly threatened to cause
20 serious harm to an individual or to property under circumstance that could
21 easily lead to serious personal injury or death or if the provider has a
22 reasonable belief that the patient poses a credible threat of serious harm to
23 an individual or to property.

24 (e)(1) If a patient in the custody of a hospital, community mental
25 health center, or other facility threatens to harm an individual or property,
26 the mental health services provider and the staff of the hospital, community
27 mental health center, or other facility shall consider and evaluate the
28 threat before discharging the patient.

29 (2) Under subdivision (e)(1) of this section, the mental health
30 services provider may inform an appropriate law enforcement agency and the
31 victim of the threat.

32 (f) Subsections (a) and (c) of this section apply to a hospital or
33 facility that has custody of a patient who has made or makes a threat to harm
34 an individual or property.

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36 /s/Clemmer

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