

As Engrossed: 3/15/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Representative Goodwin**

A Bill

ACT 1268 OF 1995
HOUSE BILL 1673

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE TITLE
9 20, CHAPTER 64, SUBCHAPTER 8 CONCERNING VOLUNTARY
10 ADMISSIONS AND INVOLUNTARY COMMITMENT OF PERSONS ADDICTED
11 TO ALCOHOL OR OTHER DRUGS; AND FOR OTHER PURPOSES."

Subtitle

15 "AN ACT CONCERNING VOLUNTARY ADMISSIONS
16 AND INVOLUNTARY COMMITMENT OF PERSONS
17 ADDICTED TO ALCOHOL OR OTHER DRUGS."

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

22 SECTION 1. Arkansas Code 20-64-801 is amended to read as follows:

23 "20-64-801. Definitions.

24 As used in this subchapter:

25 (1) Administrator refers to the chief administrative officer or
26 executive director of any *private or public* facility or program designated as
27 a receiving facility or program by the bureau;

28 (2) Bureau refers to the Bureau of Alcohol and Drug Abuse Prevention
29 of the Department of Health;

30 (3) Detention refers to any confinement of a person against his
31 wishes and begins either:

32 (A) When a person is involuntarily brought to a receiving
33 facility or program; or

34 (B) When the person appears for the initial hearing; or

35 (C) When a person on a voluntary admission is in a receiving
36 facility or program pursuant to § 20-64-810;

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2 (4) _Evaluation_ means an assessment prepared by a *receiving facility*
3 to include a description of the existence and extent of the person's addiction
4 to alcohol or drugs;

5 (5) _Gravely disabled_ refers to a person who, if allowed to remain at
6 liberty, is substantially likely, by reason of addiction to alcohol or other
7 drugs, to physically harm himself or others as a result of inability to make a
8 rational decision to receive medication or treatment, as evidenced by:

9 (A) Inability to provide for his own food, clothes, medication,
10 medical care, or shelter; or

11 (B) Placement of others in a reasonable fear of violent behavior
12 or serious physical harm to them; or

13 (C) An inability to avoid or protect himself from severe
14 impairment or injury without treatment;

15 (6) _Homicidal_ refers to a person who is addicted to alcohol or drugs
16 and poses a significant risk of physical harm to others as manifested by
17 recent overt behavior evidencing homicidal or other violent assaultive
18 tendencies;

19 (7) _Person_ shall mean a citizen of the State of Arkansas who is
20 eighteen (18) years of age or older;

21 (8) _Receiving facility or program_ refers to a residential, inpatient,
22 or outpatient treatment facility or program which is designated within each
23 geographical area of the state by the bureau to accept the responsibility for
24 care, custody, and treatment of persons voluntarily admitted or involuntarily
25 committed to such facility or program;

26 (9) _Suicidal_ refers to a person who is addicted to alcohol or other
27 drugs and by reason thereof poses a substantial risk to himself as manifested
28 by evidence of, threats of, or attempts at suicide, or serious self-inflicted
29 bodily harm, or by evidence of other behavior or thoughts that create a grave
30 and imminent risk to his physical condition."

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32 SECTION 2. Arkansas Code 20-64-803 is amended to read as follows:

33 "20-64-803. Civil immunity.

34 The prosecuting attorney, prosecutor coordinator, law enforcement
35 officers, employees of the bureau, and employees of designated receiving

1 facilities and programs shall be immune from civil liability for performance
2 of duties imposed by this subchapter."

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4 SECTION 3. Arkansas Code 20-64-805 is amended to read as follows:

5 "20-64-805. Inspections - Procedures.

6 (a) To assure compliance with this subchapter, the bureau, through its
7 authorized agents, may visit or investigate any receiving program or facility
8 to which persons are admitted or committed under this subchapter.

9 (b) The bureau shall promulgate written procedures to implement this
10 subchapter on or before July 1, 1995. Such provisions shall:

11 (1) Designate receiving facilities and programs within prescribed
12 geographical areas of the state for purposes of voluntary admissions or
13 involuntary commitments under this subchapter; and

14 (2) Establish ongoing mechanisms, guidelines, and regulations for
15 review and refinement of the treatment programs offered in the receiving
16 facilities and programs for alcohol and other drug abuse throughout this
17 state."

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19 SECTION 4. Arkansas Code 20-64-810 is amended to read as follows:

20 "20-64-810. Voluntary admissions.

21 Any person who believes himself to be addicted to alcohol or other drugs
22 may apply to the administrator or his designee of a receiving facility or
23 program for admission. If the administrator or his designee shall be
24 satisfied after examination of the applicant that he is in need of treatment
25 and will be benefited thereby, the applicant may be received and cared for in
26 the receiving facility or program for such a period of time as the
27 administrator or his designee shall deem necessary for the recovery and
28 improvement of said person, provided that said person agrees at all times to
29 remain in the receiving facility or program."

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31 SECTION 5. Arkansas Code 20-64-812 (a) is amended to read as follows:

32 "(a) Treatment staff shall immediately inform the prosecuting attorney
33 of the county where the treatment facility or program is located if, in the
34 opinion of the treatment staff, a person who voluntarily admitted himself
35 meets the criteria for involuntary commitment set forth in this subchapter and

1 such person has absented himself from the receiving facility or program. The
2 prosecuting attorney shall initiate an involuntary commitment under this
3 subchapter against such person. Statements made by the prosecuting attorney
4 in furtherance of the petition shall not be deemed to be a disclosure.
5 Statements made by treating staff to the prosecuting attorney shall be treated
6 as confidential and the prosecuting attorney shall remain subject to the
7 confidentiality requirements as set forth in state and federal law and
8 regulation."

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10 SECTION 6. Arkansas Code 20-64-815 is amended to read as follows:

11 "20-64-815. Petition for involuntary commitment.

12 (a) Any person having any reason to believe that a person is homicidal,
13 suicidal, or gravely disabled may file a petition with the clerk of the
14 probate court of the county in which the person alleged to be addicted to
15 alcohol or other drugs resides or is detained, and be represented by the
16 prosecuting attorney or any other licensed attorney within the State of
17 Arkansas.

18 (b) The petition for involuntary commitment shall:

19 (1) State whether the person is believed to be homicidal,
20 suicidal, or gravely disabled;

21 (2) Describe the conduct, clinical signs, and symptoms upon which
22 the petition is based. Such descriptions shall be limited to facts within the
23 petitioner's personal knowledge;

24 (3) Contain the names and addresses of any witnesses having
25 knowledge relevant to the allegations contained in the petition;

26 (4) Contain a specific prayer for commitment of the person to an
27 appropriate designated receiving facility or program including residential
28 inpatient or outpatient treatment for his or her addiction to alcohol or other
29 drugs.

30 (c) Personal service of the petition shall be made in accordance with
31 the Arkansas Rules of Civil Procedure and shall include:

32 (1) Notice of the date, time, and place of hearing;

33 (2) A notice that if the person shall fail to appear, the court
34 shall issue an order directing a law enforcement officer to place the person
35 in custody for the purpose of a hearing, unless the court finds that the

1 person is unable to appear by reason of physical infirmity or the appearance
2 would be detrimental to his health, well-being, or treatment."

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4 SECTION 7. Arkansas Code 20-64-816 is amended to read as follows:

5 "20-64-816. Petition for immediate detention.

6 (a) Any person filing a petition for involuntary commitment may append
7 thereto a petition for immediate detention.

8 (b) The request for immediate detention shall be verified and shall:

9 (1) State with particularity facts personally known to the
10 affiant which establish reasonable cause to believe the person is in imminent
11 danger of death or serious bodily harm;

12 (2) State whether the person is currently detained in a
13 designated receiving facility or program;

14 (3) Contain a specific prayer that the person be immediately
15 detained at a designated receiving facility or program pending a hearing.

16 (c) If, based on the petition for involuntary commitment and request
17 for immediate confinement, the judge finds a reasonable cause to believe the
18 person meets the criteria set forth in this subchapter for involuntary
19 commitment and that the person is in imminent danger of death or serious
20 bodily harm, the court may grant the request and order a law enforcement
21 officer to place the person in immediate detention at *the Benton*
22 *Detoxification Service Center* or a designated receiving facility or program
23 for treatment pending a hearing to be scheduled and conducted pursuant to §
24 20-64-821.

25 (d) Personal service of the petition and order of immediate detention
26 must be made by a law enforcement officer who shall, at the time of service,
27 take the person into custody and immediately deliver such person to the *Benton*
28 *Detoxification Service Center* or *designated receiving facility or program.*"

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30 SECTION 8. Arkansas Code 20-64-830 is amended to read as follows:

31 "20-64-830. Liability for treatment - Rules.

32 (a) Any person legally obligated to support a person in treatment from
33 a receiving facility or program shall pay to such facility or program an
34 amount to be fixed by such facility or program as cost for treatment. Such
35 amounts shall be a debt of the obligor.

1 (b) The Bureau of Alcohol and Drug Abuse Prevention of the Department of
2 Health shall promulgate rules specifying the amounts to be fixed as costs and
3 establishing procedures for implementation of this section. Such rules shall
4 set forth costs by reference to the income and assets of the obligor."
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6 SECTION 9. All provisions of this act of a general and permanent
7 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
8 Code Revision Commission shall incorporate the same in the Code.
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10 SECTION 10. If any provision of this act or the application thereof to
11 any person or circumstance is held invalid, such invalidity shall not affect
12 other provisions or applications of the act which can be given effect without
13 the invalid provision or application, and to this end the provisions of this
14 act are declared to be severable.
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16 SECTION 11. All laws and parts of laws in conflict with this act are
17 hereby repealed.
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19 /s/Rep. Goodwin
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21 APPROVED: 4-13-95
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