

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4
5 By: Senator Bradford

A Bill

ACT 208 OF 1997
SENATE BILL 186

For An Act To Be Entitled

9 "AN ACT TO AMEND VARIOUS SECTIONS OF TITLES
10 1,6,9,13,14,16,17,20,22,23, AND 27 OF THE ARKANSAS CODE
11 THAT ARE ANTIQUATED, FUNCTIONALLY OUTMODED, DEROGATORY,
12 INCONSISTENT OR AMBIGUOUS RELATING TO INDIVIDUALS WITH
13 DISABILITIES; AND FOR OTHER PURPOSES."

Subtitle

15 "TO AMEND VARIOUS SECTIONS OF TITLES
16 1,6,9,13,14,16,17,20,22,23, AND 27 OF
17 THE ARKANSAS CODE THAT ARE ANTIQUATED,
18 FUNCTIONALLY OUTMODED, DEROGATORY,
19 INCONSISTENT OR AMBIGUOUS RELATING TO
20 INDIVIDUALS WITH DISABILITIES."

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

24
25 SECTION 1. LEGISLATIVE INTENT AND PURPOSE. The General Assembly hereby
26 acknowledges that many of the laws relating to individuals with disabilities
27 are antiquated, functionally outmoded, derogatory, ambiguous or are
28 inconsistent with more recently enacted provisions of the law. Consequently,
29 it is the intent of the General Assembly and the purpose of this Act to
30 clarify the relevant chapters of Titles 1,6,9,13,14,16,17,20,22,23, and 27 of
31 the Arkansas Code Annotated of 1987.

32
33 SECTION 2. Arkansas Code § 1-5-108(b)(2) is hereby amended to read as
34 follows:

35 "(2) Call upon the citizens of the state to observe the provisions of §§
36 20-14-301 - 20-14-306 and to take precautions necessary to the safety of the

1 visually ~~handicapped~~ impaired, hearing impaired, and other ~~physically~~
 2 ~~handicapped persons~~ person with physical disabilities;"

3

4 SECTION 3. Arkansas Code § 6-11-115 is hereby amended to read as
 5 follows:

6 "6-11-115. Special contracts.

7 The State Board of Education is authorized to enter into and carry out
 8 such contractual agreements and arrangements with local school districts and
 9 other agencies as may be found necessary to implement any and all sections of
 10 Public Law 89-10, as amended, and other federal programs, including services
 11 for children of migratory farm workers, services for ~~mentally and physically~~
 12 ~~handicapped~~ persons with mental and physical disabilities as set out under
 13 Title VI of Public Law 89-10 [repealed], and any and all other services found
 14 to be essential to the extension of the benefits to eligible participants."

15

16 SECTION 4. Arkansas Code § 6-82-1002(1) is hereby amended to read as
 17 follows:

18 "(1) Approved institution means a public or private college or
 19 university located in Arkansas that is accredited by the North Central
 20 Association, Commission on Institutions of Higher Education, or which
 21 certifies to the Department of Higher Education that its students are accepted
 22 for transfer at institutions accredited by the North Central Association,
 23 Commission on Institutions of Higher Education. Further, such institution
 24 shall not discriminate against applicants, students, or employees on the basis
 25 of race, color, religion, sex, age, ~~handicap~~ disability, or national origin,
 26 consistent with the provisions of applicable state and federal law;"

27

28 SECTION 5. Arkansas Code § 6-82-1102(1) is hereby amended to read as
 29 follows:

30 "(1) Approved institution means any public or private school or
 31 college or any public postsecondary vocational and technical school located in
 32 Arkansas which awards postsecondary certificates, degrees, or diplomas.
 33 Further, such institution shall not discriminate against applicants, students,
 34 or employees on the basis of race, color, religion, sex, age, ~~handicap~~
 35 disability, or national origin, consistent with the provisions of applicable
 36 state and federal law;"

1

2 SECTION 6. Arkansas Code § 9-10-109(a)(3) is hereby amended to read as
3 follows:

4 "(3) The court may also provide for the continuation of support for a
5 ~~person suffering from a handicapping condition~~ an individual with a disability
6 which affects the ability of the ~~person~~ individual to live independent from
7 the custodial parent."

8

9 SECTION 7. Arkansas Code § 9-12-312(5)(B) is hereby amended to read as
10 follows:

11 "(B) The court may also provide for the continuation of support for a
12 ~~person suffering from a handicapping condition~~ an individual with a disability
13 which affects the ability of the ~~person~~ individual to live independent from
14 the custodial parent."

15

16 SECTION 8. Arkansas Code § 9-27-303(28) is hereby amended to read as
17 follows:

18 "(28) Predisposition report means a report concerning the juvenile,
19 the family of the juvenile, all possible disposition alternatives, the
20 location of the school in which the juvenile is or was last enrolled, whether
21 the juvenile has been tested for or has been found to have any ~~handicap~~
22 disability, the name of the juvenile's attorney, and, if appointed by the
23 court, the date of the appointment, any participation by the juvenile or his
24 family in counseling services previously or currently being provided in
25 conjunction with adjudication of the juvenile and any other matters relevant
26 to the efforts to provide treatment to the juvenile or the need for treatment
27 of the juvenile or the family. The predisposition report shall include a home
28 study of any out-of-home placement which may be part of the disposition."

29

30 SECTION 9. Arkansas Code § 13-2-207(a)(11) is hereby amended to read as
31 follows:

32 "(11) Provide specialized services to the blind and ~~physically~~
33 ~~handicapped~~ individuals with physical disabilities under a cooperative plan
34 with the Library of Congress, National Library Service for the Blind and
35 Physically Handicapped; and"

36

1 SECTION 10. Arkansas Code § 14-137-106(d)(6) is hereby amended to read
2 as follows:

3 "(6) Residential housing for low and moderate income, elderly, or
4 ~~handicapped persons~~ individuals with disabilities and families;"

5

6 SECTION 11. Arkansas Code § 14-164-303(2)(C) is hereby amended to read
7 as follows:

8 "(C) Any furnishings, machinery, vehicles, apparatus, or equipment for
9 any public betterment or improvement, which shall include, without limiting
10 the generality of the foregoing definition, the following: city or town halls,
11 courthouses, and administrative, executive, or other public offices; court
12 facilities; jails; police and sheriff stations, apparatus, and facilities;
13 firefighting facilities and apparatus; public health facilities and apparatus;
14 hospitals, nursing homes, and similar extended-care facilities; facilities for
15 nonprofit organizations engaged primarily in public health, health systems
16 support, safety, disaster relief, and related activities; residential housing
17 for low and moderate income, elderly, or ~~handicapped persons~~ individuals with
18 disabilities and families; parking facilities and garages; educational
19 facilities; economic development facilities; education and training facilities
20 for public employees; auditoriums; stadiums; convention, meeting, or
21 entertainment facilities; ambulance and other emergency medical service
22 facilities; civil defense facilities; air and water pollution control
23 facilities; drainage and flood control facilities; storm sewers; arts and
24 crafts centers; museums and related audiovisual facilities; libraries; public
25 parks, playgrounds, or other public open space; marinas; swimming pools,
26 tennis courts, golf courses, camping facilities, gymnasiums, and other
27 recreational facilities; tourist information and assistance centers;
28 historical, cultural, natural, or folklore sites; fair and exhibition
29 facilities; streets and street lighting, alleys, sidewalks, roads, bridges,
30 and viaducts; airports, passenger or freight terminals, hangars, and related
31 facilities; barge terminals, ports, harbors, ferries, wharves, docks, and
32 similar marine services; slack water harbors, water resource facilities,
33 waterfront development facilities, and navigational facilities; public
34 transportation facilities; public water systems and related transmission and
35 distribution facilities, storage facilities, wells, impounding reservoirs,
36 treatment plants, lakes, dams, watercourses, and water rights; sewage

1 collection systems and treatment plants; maintenance and storage buildings and
 2 facilities; incinerators; garbage and solid waste collection disposal,
 3 compacting, and recycling facilities of every kind; facilities for the
 4 generation, transmission, and distribution of television communications; gas
 5 and electric generation, transmission, and distribution systems, including
 6 without limiting the generality of the foregoing, hydroelectric generating
 7 facilities, dams, powerhouses, and related facilities; and social and
 8 rehabilitative service facilities;"

9

10 SECTION 12. Arkansas Code § 14-164-402(2) is hereby amended to read as
 11 follows:

12 "(2) Capital improvements means any of the following: City or town
 13 halls, courthouses, and administrative, executive, or other public offices;
 14 court facilities; jails; police and sheriff stations, apparatus, and
 15 facilities; firefighting facilities and apparatus; public health facilities
 16 and apparatus; hospitals, nursing homes, and similar extended-care facilities;
 17 facilities for nonprofit organizations engaged primarily in public health,
 18 health systems support, safety, disaster relief, and related activities;
 19 residential housing for low and moderate income, elderly, or ~~handicapped~~
 20 ~~persons~~ individuals with disabilities and families; parking facilities and
 21 garages; educational and training facilities for public employees;
 22 auditoriums; stadiums; convention, meeting, or entertainment facilities;
 23 ambulance and other emergency medical service facilities; civil defense
 24 facilities; air and water pollution control facilities; drainage and flood
 25 control facilities; storm sewers; arts and crafts centers; museums; libraries;
 26 public parks, playgrounds, or other public open space; marinas; swimming
 27 pools, tennis courts, golf courses, camping facilities, gymnasiums, and other
 28 recreational facilities; tourist information and assistance centers;
 29 historical, cultural, natural, or folklore sites; fair and exhibition
 30 facilities; streets and street lighting, alleys, sidewalks, roads, bridges,
 31 and viaducts; airports, passenger or freight terminals, hangars, and related
 32 facilities; barge terminals, ports, harbors, ferries, wharves, docks, and
 33 similar marine services; slack water harbors, water resource facilities,
 34 waterfront development facilities, and navigational facilities; public
 35 transportation facilities; public water systems and related transmission and
 36 distribution facilities, storage facilities, wells, impounding reservoirs,

1 treatment plants, lakes, dams, watercourses, and water rights; sewage
 2 collection systems and treatment plants; maintenance and storage buildings and
 3 facilities; incinerators; garbage and solid waste collection disposal,
 4 compacting, and recycling facilities of every kind; gas and electric
 5 generation, transmission, and distribution systems, including without limiting
 6 the generality of the foregoing, hydroelectric generating facilities, dams,
 7 powerhouses, and related facilities; and social and rehabilitative service
 8 facilities;"

9

10 SECTION 13. Arkansas Code § 16-60-110 is hereby amended to read as
 11 follows:

12 "§ 16-60-110. Actions against person in penitentiary or asylum.

13 An action, other than one of those mentioned in §§ 16-60-101 -
 14 16-60-103, against a person confined in the penitentiary or a ~~lunatic asylum~~
 15 facility for treatment for mental disease must be brought in the county in
 16 which he resided, or claimed his residence, prior to his confinement, unless
 17 otherwise provided by law."

18

19 SECTION 14. Arkansas Code § 17-81-306(a)(1) is hereby amended to read
 20 as follows:

21 "(a)(1) Examinations shall be given in English and in writing, except
 22 for certain ~~handicapped applicants~~ applicants with disabilities such as blind
 23 persons, and shall include the following subjects:"

24

25 SECTION 15. Arkansas Code § 20-14-206(13) is hereby amended to read as
 26 follows:

27 "(13) Cooperate with the General Assembly and the President's Committee
 28 on Employment of ~~the Handicapped~~ People with Disabilities."

29

30 SECTION 16. Arkansas Code § 20-14-505(a)(1) and (2) are hereby amended
 31 to read as follows:

32 "(1) For direct services for ~~handicapped infants and toddlers~~ infants
 33 and toddlers with disabilities that are not otherwise provided from other
 34 public or private sources; and

35 (2) To expand and improve on services for ~~handicapped infants and~~
 36 ~~toddlers~~ infants and toddlers with disabilities that are otherwise available."

1 SECTION 17. Arkansas Code § 20-14-506(4) and (5) are amended to read as
2 follows:

3 "(4) Procedures to protect the rights of the ~~handicapped infants and~~
4 ~~toddlers~~ infants and toddlers with disabilities whenever the parents or
5 guardian of the child are not known or unavailable or the child is a ward of
6 the state, including the assignment of an individual, who shall not be an
7 employee of the state agency providing services, to act as a surrogate for the
8 parents or guardian;

9 (5) Written prior notice to the parents or guardian of the ~~handicapped~~
10 ~~infant or toddler~~ infant or toddler with a disability whenever the state
11 agency or service provider proposes to initiate or change or refuses to
12 initiate or change the identification, evaluation, placement, or provision of
13 appropriate early intervention services to the ~~handicapped infant or toddler~~
14 infant or toddler with a disability;"

15

16 SECTION 18. Arkansas Code § 20-14-507(b) is hereby amended to read as
17 follows:

18 "(b) Nothing in this subchapter shall be construed to permit the state
19 to reduce medical or other assistance available or to alter eligibility under
20 Title V of the Social Security Act, relating to maternal and child health, or
21 Title XIX of the Social Security Act, relating to Medicaid for ~~handicapped~~
22 ~~infants and toddlers~~ infants and toddlers with disabilities, within the
23 state."

24

25 SECTION 19. Arkansas Code § 20-15-705(a) is hereby amended to read as
26 follows:

27 "(a) Upon receiving the petition, the court shall fix a date for a
28 hearing on the petition and shall cause notice of the petition, with the time
29 and place for hearing, to be served personally at least seven (7) days before
30 the hearing, to be served upon the person who is ~~afflicted with~~ has
31 tuberculosis and alleged to be dangerous to others."

32

33 SECTION 20. Arkansas Code § 20-16-508(a)(1) is hereby amended to read
34 as follows:

35 "(a)(1) Consent to the provision of medical or surgical care or
36 services by a hospital or public clinic or consent to the performance of

1 medical or surgical care or services by a physician who is licensed to
 2 practice medicine in this state when the consent is executed by a minor who is
 3 or believes himself ~~to be afflicted with~~ have a venereal disease shall be
 4 valid and binding as if the minor had achieved his majority. Any such consent
 5 shall not be subject to a later disaffirmance by reason of his minority."

6

7 SECTION 21. Arkansas Code § 20-24-101(8)(D) is hereby amended to read
 8 as follows:

9 "(D) The term elevator shall include vertical wheelchair lifts,
 10 inclined wheelchair lifts, and inclined stairway chairlifts installed in
 11 locations other than in or at a private, single-family dwelling for use by ~~the~~
 12 ~~physically handicapped~~ individuals with physical disabilities;"

13

14 SECTION 22. Arkansas Code § 20-48-406(a)(2) is hereby amended to read
 15 as follows:

16 "(2) The investigation shall include an examination of the individual
 17 by two (2) reputable physicians, appointed or designated by the board, for the
 18 purpose of determining the mental status and condition of the individual and
 19 whether or not he ~~is afflicted with or~~ has or is a carrier of a contagious or
 20 infectious disease. The investigation may also include one (1) or more
 21 examinations of the individual by psychologists, psychiatrists, and physicians
 22 designated by the board. If the board determines from the investigation that:

23 (A) The statements made in the petition are true and correct;

24 (B) The individual is eligible under the provisions of §
 25 20-48-404;

26 (C) The individual ~~is not afflicted with~~ neither has nor is a
 27 carrier of a contagious or infectious disease; and"

28

29 SECTION 23. Arkansas Code § 20-76-434(b) is hereby amended to read as
 30 follows:

31 "(b) No person in the State of Arkansas shall, on the ground of race,
 32 color, sex, ~~handicap~~ disability, religion, or national origin, be excluded
 33 from participation in or be subjected to discrimination under any program or
 34 activity enumerated in this section."

35

36 SECTION 24. Arkansas Code § 22-4-402(1) is hereby amended to read as

1 follows:

2 "(1) Trail means any road, pathway, route, or other identifiable
3 linear facility designated, constructed, and maintained to provide specific
4 recreational experiences to the public. Trails may be established for hiking,
5 biking, boating, canoeing, motorcycling, horse riding, use by ~~the handicapped~~
6 individuals with disabilities, and other trail-oriented uses;"

7

8 SECTION 25. Arkansas Code 23-75-111(b) is hereby amended to read as
9 follows:

10 "(b) In any hospital service corporation contract, any medical service
11 corporation contract, or any hospital and medical service corporation
12 contract, whether group or individual, that contains a provision whereby
13 coverage of a dependent in a family group terminates at a specified age, there
14 shall also be a provision that coverage of an unmarried dependent who is
15 incapable of sustaining employment by reason of mental retardation or physical
16 ~~handicap~~ disability, who became so incapacitated prior to the attainment of
17 age nineteen (19) and who is chiefly dependent upon the contract holder or
18 certificate holder for support and maintenance, shall not terminate, but
19 coverage shall continue so long as the contract or certificate remains in
20 force and so long as the dependent remains in such condition. At the request
21 and expense of the corporation, proof of the incapacity and dependency must be
22 furnished to the corporation by the contract or certificate holder at least
23 thirty-one (31) days before the child's attainment of the limiting age, and,
24 subsequently, as may be required by the corporation, but not more frequently
25 than annually, after the two-year period following the child's attainment of
26 the limiting age."

27

28 SECTION 26. Arkansas Code § 23-85-131(b) is hereby amended to read as
29 follows:

30 "(b) In any disability insurance contract that contains a provision
31 whereby coverage of a dependent in a family group terminates at a specified
32 age, there shall also be a provision that coverage of an unmarried dependent
33 who is incapable of sustaining employment by reason of mental retardation or
34 physical ~~handicap~~ disability, who became so incapacitated prior to the
35 attainment of the age of nineteen (19) years and who is chiefly dependent upon
36 the policyholder for support and maintenance, shall not terminate but coverage

1 shall continue so long as the contract remains in force and so long as the
2 dependent remains in such condition."

3

4 SECTION 27. Arkansas Code § 23-86-102(8) is hereby amended to read as
5 follows:

6 "(8) In any contract that contains a provision whereby coverage of a
7 dependent in a family group terminates at a specified age, there shall also be
8 a provision that coverage of an unmarried dependent who is incapable of
9 sustaining employment by reason of mental retardation or ~~physical handicap~~
10 disability, who became so incapacitated prior to the attainment of age
11 nineteen (19) and who is chiefly dependent upon the employee for support and
12 maintenance, shall not terminate but coverage shall continue so long as the
13 contract remains in force and so long as the dependent remains in such
14 condition. At the request and expense of the insurer, proof of the incapacity
15 or dependency must be furnished to the insurer by the policyholder. In no
16 event shall this requirement preclude eligible dependents under Acts 1975, No.
17 649, § 5, as amended, regardless of age. If the incapacity or dependency is
18 thereafter removed or terminated, the policyholder shall so notify the
19 insurer."

20

21 SECTION 28. Arkansas Code § 23-86-108(4) is hereby amended to read as
22 follows:

23 "(4) In any contract that contains a provision whereby coverage of a
24 dependent in a family group terminates at a specified age, there shall also be
25 a provision that coverage of an unmarried dependent who is incapable of
26 sustaining employment by reason of mental retardation or ~~physical handicap~~
27 disability, who became so incapacitated prior to the attainment of age
28 nineteen (19) years and who is chiefly dependent upon the employee for support
29 and maintenance, shall not terminate but coverage shall continue so long as
30 the coverage of the employee or member remains in force and so long as the
31 dependent remains in such condition. At the request and expense of the
32 insurer, proof of the incapacity or dependency must be furnished to the
33 insurer by the policyholder, except in no event shall this requirement
34 preclude eligible dependents under Acts 1975, No. 649, § 5, as amended,
35 regardless of age. If the incapacity or dependency is thereafter removed or
36 terminated, the policyholder shall so notify the insurer;"

1

2 SECTION 29. Arkansas Code § 27-1-106(a)(1) is hereby amended to read as
3 follows:

4 "(a) The General Assembly finds that:

5 (1) Transportation is a critical problem for the elderly, ~~the~~
6 ~~handicapped~~ individuals with disabilities, and others without access to the
7 use of a private automobile."
8

9 SECTION 30. Arkansas Code § 27-15-306 (a) and (b) is hereby amended to
10 read as follows:

11 "(a) Any law enforcement official in this state is authorized to enter
12 upon the public parking space of any public agency of this state for the
13 purpose of enforcing the provisions of this subchapter with respect to
14 ~~handicapped~~ accessible parking.

15 (b) Any law enforcement officer in this state is authorized to enter
16 upon the parking space of any private agency in this state for the purpose of
17 enforcing the provisions of this subchapter with respect to ~~handicapped~~
18 accessible parking, unless the private agency has notified the law enforcement
19 agency that intrusion upon such property by law enforcement officers is
20 prohibited without the issuance of an appropriate court order."
21

22 SECTION 31. Arkansas Code § 27-15-701(a) is hereby amended to read as
23 follows:

24 "(a) Any Arkansas resident who is an American veteran, ~~confined to~~ uses
25 a wheelchair as a result of a nonservice-connected catastrophic injury, and in
26 receipt of aid and attendance by the United States Department of Veterans
27 Affairs, shall be entitled to register his personal motor vehicle and receive
28 permanent license plates free of charge."
29

30 SECTION 32. Arkansas Code § 27-15-2902 is hereby amended to read as
31 follows:

32 "§ 27-15-2902. Definition.

33 As used in this subchapter, unless the context otherwise requires,
34 university or college means a public or private university or college
35 offering a four-year degree program and located in Arkansas that is accredited
36 by the Commission on Institutions of Higher Education of the North Central

1 Association, or which certifies to the Department of Higher Education that its
2 students are accepted for transfer at institutions accredited by the
3 Commission on Institutions of Higher Education of the North Central
4 Association; further, such institution shall not discriminate against
5 applicants, students, or employees on the basis of race, color, religion, sex,
6 age, ~~handicap~~ disability, or national origin, consistent with the provisions
7 of applicable state and federal law."

8

9 SECTION 33. Arkansas Code § 27-16-604(a)(5) is hereby amended to read
10 as follows:

11 "(5) As a commercial or noncommercial driver who has previously been
12 adjudged to ~~be afflicted with or suffering from~~ have any mental disability or
13 disease and who has not at the time of application been restored to competency
14 by the methods provided by law;"

15

16 SECTION 34. Arkansas Code § 27-37-702(b)(2) is hereby amended to read
17 as follows:

18 "(2) Passengers and drivers with a ~~physically handicapping condition~~
19 physical disability which contraindicates the use of a seat belt, and which
20 condition is certified by a physician who states the nature of the ~~handicap~~
21 disability, as well as the reason the use of a seat belt is inappropriate;"

22

23 SECTION 35. All provisions of this act of a general and permanent
24 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
25 Code Revision Commission shall incorporate the same in the Code.

26

27 SECTION 36. If any provision of this act or the application thereof to
28 any person or circumstance is held invalid, such invalidity shall not affect
29 other provisions or applications of the act which can be given effect without
30 the invalid provision or application, and to this end the provisions of this
31 act are declared to be severable.

32

33 SECTION 37. All laws and parts of laws in conflict with this act are
34 hereby repealed.

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