

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 952 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/13/09

A Bill

SENATE BILL 63

5 By: Senator Madison
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO MAKE VARIOUS CORRECTIONS TO TITLE 20 OF
10 THE ARKANSAS CODE OF 1987 ANNOTATED; AND FOR
11 OTHER PURPOSES.
12

13 **Subtitle**

14 AN ACT TO MAKE VARIOUS CORRECTIONS TO
15 TITLE 20 OF THE ARKANSAS CODE OF 1987
16 ANNOTATED.
17
18

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

21 SECTION 1. Arkansas Code § 20-7-116 is repealed because the Advisory
22 Board for Perinatal Health Services was abolished by Acts 2007, No. 153, § 3.
23 ~~20-7-116. Perinatal health.~~

24 ~~(a)(1) There is created the Advisory Board for Perinatal Health~~
25 ~~Services.~~

26 ~~(2) The board members shall be appointed by the Governor for~~
27 ~~terms of four (4) years, and membership of the fourteen member board shall~~
28 ~~consist of the following:~~

29 ~~(A) One (1) obstetrician;~~

30 ~~(B) One (1) pediatrician;~~

31 ~~(C) One (1) family practitioner;~~

32 ~~(D) Two (2) registered nurses, one (1) in neonatal-~~
33 ~~perinatal nursing and one (1) in fetal maternal nursing;~~

34 ~~(E) One (1) hospital administrator;~~

35 ~~(F) The Director of the Division of Health of the~~



1 ~~Department of Health and Human Services or a designee;~~

2 ~~(G) The Director of the Department of Health and Human~~
3 ~~Services or a designee;~~

4 ~~(H) The Chairman of the Department of Pediatrics and the~~
5 ~~Chairman of the Department of Obstetrics and Gynecology of the University of~~
6 ~~Arkansas for Medical Sciences; and~~

7 ~~(I) Four (4) ex officio members, consisting of one (1)~~
8 ~~member from each of the health system agencies.~~

9 ~~(3) The board shall select from its membership a chair and a~~
10 ~~vice chair.~~

11 ~~(4) The board shall meet at least two (2) times each calendar~~
12 ~~year on call of the chair.~~

13 ~~(5) It shall be the duty and responsibility of the board to~~
14 ~~develop a comprehensive statewide network of perinatal health care services~~
15 ~~through coordination of planning, development, and implementation of~~
16 ~~perinatal health programs and to recommend perinatal health care policies to~~
17 ~~the Governor.~~

18 ~~(6) The board shall report its findings and recommendations to~~
19 ~~the Governor.~~

20 ~~(7) The board's authority pursuant to this section shall be~~
21 ~~advisory only.~~

22 ~~(b)(1) There is created the Office of Perinatal Health to be within~~
23 ~~the Division of Health of the Department of Health and Human Services.~~

24 ~~(2) It shall be the responsibility of this office to develop a~~
25 ~~regionalized system of perinatal services with the guidance and advice of the~~
26 ~~board and under the authority of the Director of the Division of Health of~~
27 ~~the Department of Health and Human Services.~~

28
29 SECTION 2. Arkansas Code § 20-10-2106(2)(B) is amended to read as
30 follows to reorganize the subdivision for clarity:

31 (B)(i) These procedures shall include+

32 ~~(i) A a form promulgated by the Department of Human~~
33 ~~Services for use by a long-term care facility; and.~~

34 (ii) The form shall be limited to one (1) page and
35 shall:

36 (a) Be orally read to the resident or, if

1 applicable, the resident’s representative by long-term care facility staff
2 except as provided in this subdivision (2)(B)(ii);

3 (b) List the date;

4 (c) State the name of the resident or, if
5 applicable, the resident’s representative;

6 (d) Contain checkboxes indicating that:

7 (1) The office was notified of the
8 admission;

9 (2) The form was not read orally to the
10 resident or resident’s representative because the resident lacks decisional
11 capacity and does not have a representative; and

12 (3) The resident or the resident’s
13 representative declined the options counseling for long-term care;

14 (e) Contain a statement and an acknowledgment
15 that options counseling for long-term care is an optional program and may be
16 declined by execution of the form;

17 (f) Be signed by the resident or, if
18 applicable, the resident’s representative; and

19 (g) Be retained by the long-term care facility in
20 the resident’s admission file for eighteen (18) months or until the next
21 standard survey, whichever is longer.

22
23 SECTION 3. Arkansas Code § 20-16-508(a)(1) is amended to read as
24 follows to rewrite the subdivision for clarity:

25 (a)(1) ~~Consent to the provision of medical or surgical care or~~
26 ~~services by a hospital or public clinic or consent to the performance of~~
27 ~~medical or surgical care or services by a physician who is licensed to~~
28 ~~practice medicine in this state, when the consent is executed by a minor who~~
29 ~~has or believes himself or herself to have a sexually transmitted disease~~
30 ~~shall be valid and binding as if the minor had achieved his or her majority.~~
31 Any consent shall not be subject to a later disaffirmance by reason of his or
32 her minority. When a minor who believes himself or herself to have a sexually
33 transmitted disease consents to the provision of medical care or surgical
34 care or services by a hospital or public clinic or consents to the
35 performance of medical care or surgical care or services by a physician who
36 is licensed to practice medicine in this state, the consent:

1 (A) Is valid and binding as if the minor had achieved his
 2 or her majority; and

3 (B) Is not subject to a later disaffirmance by reason of
 4 his or her minority.

5
 6 SECTION 4. Arkansas Code § 20-16-903(b) is amended to read as follows
 7 to reorganize the subdivision for clarity:

8 (b) Except in the case of a medical emergency, consent to an abortion
 9 is voluntary and informed only if:

10 (1)~~(A) Prior to~~ Before and in no event on the same day as the
 11 abortion, the woman is told the following, by telephone or in person, by the
 12 physician who is to perform the abortion, by a referring physician, or by an
 13 agent of either physician:

14 ~~(A)(i)~~ (i) The name of the physician who will perform
 15 the abortion;

16 ~~(B)(ii)~~ (ii) The medical risks associated with the
 17 particular abortion procedure to be employed;

18 ~~(C)(iii)~~ (iii) The probable gestational age of the fetus
 19 at the time the abortion is to be performed;

20 ~~(D)(iv)~~ (iv) The medical risks associated with carrying
 21 the fetus to term; and

22 ~~(E)(v)~~ (v) That a spouse, boyfriend, parent, friend, or
 23 other person cannot force her to have an abortion.

24 ~~(2)(A)(i)(B)~~ (B) The information required by this subdivision
 25 (b)(1) ~~of this section:~~

26 ~~(i) may be provided by telephone without conducting a~~
 27 ~~physical examination or tests of the woman.~~ Shall be provided during a
 28 consultation in which the physician or his or her agent is able to ask
 29 questions of the woman and the woman is able to ask questions of the
 30 physician;

31 (ii)(a) May be provided by telephone without
 32 conducting a physical examination or tests on the woman.

33 (b) If the information is supplied by
 34 telephone, the information may be based both on facts supplied to the
 35 physician or his or her agent by the woman and on whatever other relevant
 36 information is reasonably available to the physician or his or her agent;

1 and

2 ~~(B) The information required by subdivision (b)(1) of this~~
 3 ~~section may not be provided by a tape recording but shall be provided during~~
 4 ~~a consultation in which the physician or his or her agent is able to ask~~
 5 ~~questions of the woman and the woman is able to ask questions of the~~
 6 ~~physician.~~

7 (iii) Shall not be provided by a tape recording.

8 (C) If a physical examination, tests, or other new
 9 information subsequently indicates the need in the medical judgment of the
 10 physician for a revision of the information previously supplied to the woman,
 11 that revised information may be communicated to the woman at any time ~~prior~~
 12 ~~to~~ before the performance of the abortion.

13 ~~(D) Nothing in this section may be construed to preclude~~
 14 This section does not preclude the provision of required information through
 15 a translator in a language understood by the woman;

16 ~~(3)(2)(A) Prior to~~ Before and in no event on the same day as the
 17 abortion, the woman is informed, by telephone or in person, by the physician
 18 who is to perform the abortion, by a referring physician, or by an agent of
 19 either physician:

20 ~~(A)(i)~~ That medical assistance benefits may be
 21 available for prenatal care, childbirth, and neonatal care;

22 ~~(B)(ii)~~ That the father is liable to assist in the
 23 support of her child, even in instances in which the father has offered to
 24 pay for the abortion;

25 ~~(C)(iii)~~ That she has the option to review the
 26 printed or electronic materials described in § 20-16-904 and that those
 27 materials:

28 ~~(i)(a)~~ Have been provided by the ~~State of~~
 29 ~~Arkansas~~ state; and

30 ~~(ii)(b)~~ Describe the fetus and list agencies
 31 that offer alternatives to abortion; and

32 ~~(D)(iv)~~ That if the woman chooses to exercise her
 33 option to view the materials:

34 ~~(i)(a)~~ In a printed form, the materials shall
 35 be mailed to her by a method chosen by her; or

36 ~~(ii)(b)~~ Via the Internet, she shall be

1 informed ~~prior to~~ before and in no event on the same day as the abortion of
2 the specific address of the website where the materials can be accessed~~+~~.

3 ~~(4)(B)~~ The information required by subdivision
4 ~~(b)(3)(b)(2)~~ of this section may be provided by a tape recording if provision
5 is made to record or otherwise register specifically whether the woman does
6 or does not choose to review the printed materials;

7 ~~(5)(3)~~ ~~Prior to the termination of the pregnancy~~ Before the
8 abortion, the woman certifies in writing that the information described in
9 subdivision (b)(1) of this section and her options described in subdivision
10 ~~(b)(3)(b)(2)~~ of this section have been furnished to her and that she has been
11 informed of her option to review the information referred to in subdivision
12 ~~(b)(3)(C)(b)(2)(A)(iii)~~ of this section;

13 ~~(6)(4)~~ ~~Prior to~~ Before the abortion, the physician who is to
14 perform the procedure or the physician's agent receives a copy of the written
15 certification prescribed by subdivision ~~(b)(5)(b)(3)~~ of this section; and

16 ~~(7)(5)~~ Before the abortion ~~procedure is performed~~, the physician
17 ~~shall confirm~~ confirms with the patient that she has received information
18 regarding:

19 (A) The medical risks associated with the particular
20 abortion procedure to be employed;

21 (B) The probable gestational age of the ~~unborn child~~ fetus
22 at the time the abortion is to be performed;

23 (C) The medical risks associated with carrying the fetus
24 to term; and

25 (D) That a spouse, boyfriend, parent, friend, or other
26 person cannot force her to have an abortion.

27
28 SECTION 5. Arkansas Code § 20-17-1029(b)(3) is amended to read as
29 follows to correct a term:

30 (3) Members shall ~~biannually~~ biennially elect a chair, a vice
31 chair, and a secretary from the membership, whose duties shall be those
32 customarily exercised by the officers or specifically designated by the
33 cemetery advisory board.

34
35 SECTION 6. Arkansas Code § 20-22-901(b) is amended to read as follows
36 to further subdivide the subsection and to clarify the wording of the

1 subsection:

2 (b)(1)(A) If the property is owned by a nonmember of the fire
3 district, ~~then~~ the volunteer fire department ~~shall be entitled to~~ may recover
4 from the nonmember property owner the reasonable value of its services.

5 (B) ~~not to~~ Recovery under subdivision (b)(1)(A) of this
6 section shall not exceed the fair market value of the services rendered.

7 (2)(A) A claim for services in responding to a fire involving
8 only personal property shall be allowed only for personal property of
9 nonmembers.

10 (B) ~~and the~~ The claimed amount under subdivision (b)(2)(A)
11 of this section shall not exceed five hundred dollars (\$500).

12

13 SECTION 7. Arkansas Code § 20-28-104 is amended to read as follows to
14 rewrite the section for clarity:

15 20-28-104. ~~Annual fees~~ Fees - Exceptions.

16 (a) The Department of Health may collect the following ~~annual~~ fees
17 from each public water system for service ~~provided~~, other than plan reviews,
18 provided by the public water system supervision program:

19 ~~(1) Community water systems and nontransient noncommunity water~~
20 ~~systems: not more than thirty cents (30¢) per service connection per month;~~

21 ~~(2) Noncommunity: One hundred twenty five dollars (\$125);~~

22 ~~(3) The minimum fee charged to a community water system or~~
23 ~~nontransient noncommunity water system is two hundred fifty dollars (\$250)~~
24 ~~per year;~~

25 ~~(4) The number of service connections for nontransient~~
26 ~~noncommunity water systems shall be calculated by dividing the population~~
27 ~~served by two and one half (2.5);~~

28 ~~(5) The number of service connections for community public water~~
29 ~~systems not serving discrete service connections shall be calculated by~~
30 ~~dividing the population served by two and one half (2.5).~~

31 (1)(A) For a community public water system and a nontransient
32 noncommunity water system, not more than thirty cents (30¢) per service
33 connection per month.

34 (B)(i) The number of service connections for a community
35 public water system not serving discrete service connections shall be
36 calculated by dividing the population served by two and one-half (2½).

1 (ii) The number of service connections for a
 2 nontransient noncommunity water system shall be calculated by dividing the
 3 population served by two and one-half (2½).

4 (C) The minimum fee charged to a community public water
 5 system or a nontransient noncommunity water system is two hundred fifty
 6 dollars (\$250) per year; and

7 (2) For a noncommunity public water system, one hundred twenty-
 8 five dollars (\$125) per year.

9 (b) The number of service connections or population served shall be
 10 taken from the department's public water system inventory at the time of
 11 billing.

12 (c)(1) ~~New water systems will~~ A new water system shall not be assessed
 13 a fee for services until water is supplied to the first connection.

14 (2) ~~All~~ Each state-owned noncommunity public water ~~systems are~~
 15 system is exempt from the fee provisions of this chapter.

16 (d) The ~~fee~~ fees shall be established by the State Board of Health to
 17 assure implementation of this chapter.

18
 19 SECTION 8. Arkansas Code § 20-47-229(c) is amended to read as follows
 20 to correct a term:

21 (c) The restraint shall be implemented in accordance with safe and
 22 appropriate restraint types and restraint techniques as determined by
 23 hospital policy.

24
 25 SECTION 9. The introductory language of Arkansas Code § 20-47-602(c)
 26 is amended to read as follows to correct the word usage in the subsection:

27 (c) Each county jail shall ~~adapt~~ adopt the standard protocols to
 28 assist law enforcement personnel and mental health personnel as follows:

29
 30 SECTION 10. Arkansas Code Title 20, Chapter 49, Subchapter 3 is
 31 repealed because the subchapter was held unconstitutional by the Arkansas
 32 Supreme Court in McKinney v. McKinney, 305 Ark. 13, 805 S.W.2d 66 (1991).

33 ~~20-49-301. Request by parent or guardian.~~

34 ~~(a) Notwithstanding any of the provisions of subchapter 2 of this~~
 35 ~~chapter and as an alternative provision to the probate court directives as~~
 36 ~~described in subchapter 2 of this chapter, it is recognized that obvious~~

1 ~~hardship and environmental circumstances truly negate the protective measures~~
2 ~~intended in those sections.~~

3 ~~(b) It shall be considered lawful for a legal guardian, in the case of~~
4 ~~an adult judged to be incompetent, or a parent or guardian, in the case of a~~
5 ~~minor judged to be incompetent, to seek sterilization for their charges~~
6 ~~through direct medical channels.~~

7 ~~(c) An "incompetent" shall mean a person so defined in § 20-49-101(3)~~
8 ~~who resides in the state.~~

9
10 ~~20-49-302. Certificate required.~~

11 ~~(a)(1) Before any sterilization procedure will be performed by a~~
12 ~~doctor of medicine, there must be filed with the approved hospital where the~~
13 ~~sterilization procedure is to be performed the certificate of three (3)~~
14 ~~doctors of medicine not engaged jointly in private practice. One (1) of the~~
15 ~~doctors shall be the person performing the sterilization, and the others~~
16 ~~shall be psychiatrists.~~

17 ~~(2) The certificate shall state that the doctors of medicine~~
18 ~~have examined the incompetent and certify in writing that the element of~~
19 ~~incompetence, as defined in § 20-49-101(3), is truly present and that they~~
20 ~~believe a sterilizing procedure is justified.~~

21 ~~(b) The sterilization committee of the licensed hospital shall review~~
22 ~~the certified statements of the three (3) physicians and approve or~~
23 ~~disapprove the request.~~

24
25 ~~20-49-303. Performance in licensed hospital required.~~

26 ~~Sterilization procedures may be performed only in a hospital licensed~~
27 ~~by the State Board of Health and accredited by the Joint Commission on~~
28 ~~Accreditation of Hospitals.~~

29
30 ~~20-49-304. Performance not mandatory—Liability.~~

31 ~~(a)(1) No person shall be required to perform or participate in a~~
32 ~~sterilizing procedure.~~

33 ~~(2) The refusal of any person to perform or participate in a~~
34 ~~sterilizing procedure shall not be a basis for civil liability to any person~~
35 ~~nor a basis for any disciplinary or any other recriminatory action against~~
36 ~~him or her.~~

1 ~~(b)(1) No hospital, hospital director, sterilization committee, or~~
2 ~~governing board shall be required to permit sterilization within its~~
3 ~~institution.~~

4 ~~(2) The refusal to permit the procedures shall not be grounds~~
5 ~~for civil liability to any person nor a basis for any disciplinary or other~~
6 ~~recriminatory action by the state or any person.~~

7 ~~(c) Nothing contained in this section is intended to exempt from~~
8 ~~liability any physician, nurse, or other person who, in his or her acts or~~
9 ~~omission to act, is found to have failed to observe the standard of care~~
10 ~~prescribed by law.~~

11
12 SECTION 11. Arkansas Code § 20-76-105(b) is amended to read as follows
13 to clarify the wording of the subsection:

14 (b) The board shall be composed of the following members:

15 (1) The Director of the Department of Workforce Services;

16 (2) The Director of the Arkansas Workforce Investment Board;

17 (3) The Director of the Division of County Operations of the
18 Department of Human Services;

19 (4)(A) Four (4) members ~~to be~~ appointed by the Governor.

20 (B) One (1) member appointed under subdivision (b)(4)(A)
21 of this section shall be a current or former recipient of transitional
22 employment assistance or Aid to Families with Dependent Children;

23 (5) ~~Two (2) members, one (1) to be~~ One (1) member appointed by
24 the Speaker of the House of Representatives; and

25 (6) One (1) member ~~to be~~ appointed by the President Pro Tempore
26 of the Senate.

27
28 SECTION 12. Arkansas Code § 20-76-107(a)(3)(A) is amended to read as
29 follows to correct a reference:

30 (A) How effective the program is in addressing each of the
31 transitional employment assistance outcomes as specified in ~~§ 20-76-105(1)~~
32 ~~{Repealed} § 20-76-113~~ and progressing toward each of the annual targets set
33 for those outcomes and any measures that might be taken to improve ~~its~~ the
34 program's performance;

35
36 SECTION 13. Arkansas Code § 20-76-112 is amended to read as follows to

1 correct a reference:

2 20-76-112. Human Services ~~Worker~~ Workers in the ~~School~~ Schools
3 Program.

4 (a) The Human Services Workers in the ~~School~~ Schools Program is
5 established as a collaborative effort ~~between~~ among the Division of Children
6 and Family Services of the Department of Human Services, the Temporary
7 Assistance for Needy Families Oversight Board, the Department of Education,
8 and local school districts. The Human Services Workers in the ~~School~~ Schools
9 Program is designed to help children and families by:

10 (1) Promoting safety of children and strengthening of families;

11 (2) Supporting the community's capacity to produce children who
12 are healthy, children who are in supportive, nurturing, and healthy families,
13 and children who succeed in school; and

14 (3) Promoting the division's family preservation philosophy and
15 family-centered practice.

16 (b) Upon approval of the board, the division shall enter into
17 contracts with local school districts to provide funding for the maximum
18 number of human services workers.

19 (c) ~~Human services workers~~ A human services worker shall have a
20 bachelor's degree or a master's degree in social work or a related field and
21 shall provide the following services according to skills and training:

22 (1) Crisis intervention;

23 (2) School conferences and in-service training;

24 (3) Home visits;

25 (4) Transportation for family and student group counseling;

26 (5) Parent training and activities;

27 (6) Supportive service referrals;

28 (7) Individualized coping and conflict management skills; and

29 (8) Assessment of family and student needs.

30 (d)(1) Funding for human services workers shall be targeted to schools
31 with ninety percent (90%) or more of their children eligible for the ~~Free and~~
32 ~~Reduced Lunch program~~ National School Lunch Program under the National School
33 Lunch Act.

34 (2) The Department of Education and the division shall develop
35 criteria to prioritize eligibility for the Human Services ~~Worker~~ Workers in
36 the ~~School~~ Schools Program.

1 (e) ~~The Human Services Worker in the School Program shall be evaluated~~
2 ~~annually by the~~ The Coordinated Health Services Section of the Department of
3 Education shall evaluate the Human Services Workers in the Schools Program
4 annually in coordination with the division, the board, and the local school
5 districts that hold contracts.

6 (f) A parent or a student has the option to refuse any services
7 recommended under ~~this program~~ the Human Services Workers in the Schools
8 Program.

9
10 SECTION 14. Arkansas Code § 20-76-438(b)(2)(E) is amended to read as
11 follows to correct a reference:

12 (E) Consult with the Department of Human Services, the
13 Temporary Assistance for Needy Families Oversight Board, and other state
14 agencies and organizational experts to determine the most effective and
15 efficient organization for administration of the ~~TEA program~~ Transitional
16 Employment Assistance Program and make a recommendation to the Governor about
17 how to implement that administration no later than January 1, 2008; and
18

19 SECTION 15. Arkansas Code § 20-76-444(a)(2)(B) is amended to read as
20 follows to correct a reference:

21 (B) The administration of the Arkansas Work Pays Program
22 shall focus on promoting the transitional employment assistance outcomes
23 specified in ~~§ 20-76-105(1)~~ § 20-76-113.

24
25 SECTION 16. Arkansas Code § 20-77-306(d)(3) is amended to read as
26 follows to clarify the wording of the subdivision:

27 (3) Agree not to deny claims submitted by the department based
28 on ~~a failure to:~~

29 (A) ~~Present~~ A failure to present proper documentation of
30 coverage at the point of sale; or

31 (B) The date of submission of the claim if the claim is
32 submitted within three (3) years from the date on which the claimed item or
33 service was furnished.

34
35 SECTION 17. Arkansas Code § 20-77-1703(b)(1)(B) is amended to read as
36 follows to clarify the meaning of the subdivision by adding necessary

1 language:

2 (B) ~~Involved~~ The error or omission involved a covered
3 service; and

4
5 SECTION 18. Arkansas Code § 20-82-208(a)(1)(E)(ii) is amended to read
6 as follows to insert a necessary word:

7 (ii) Reduced trauma to the children and their
8 families;

9
10 SECTION 19. Arkansas Code § 20-82-209(b)(1)(A) is amended to read as
11 follows to clarify the wording of the subdivision:

12 (1)(A) Prepare and issue a statewide model protocol for local
13 multidisciplinary teams regarding investigations of child abuse and the
14 provision of safety and services to victims of child abuse.

15
16 SECTION 20. The enactment and adoption of this act shall not repeal,
17 expressly or impliedly, the acts passed at the regular session of the 87th
18 General Assembly. All such acts shall have full effect and, so far as those
19 acts intentionally vary from or conflict with any provision contained in this
20 act, those acts shall have the effect of subsequent acts and as amending or
21 repealing the appropriate parts of the Arkansas Code of 1987.

22
23 /s/ Madison

24
25 **APPROVED: 4/6/2009**