Stricken language would be deleted from and underlined language would be added to present law. Act 319 of the Regular Session

1	State of Arkansas As Engrossed: $H2/14/17$ $H2/16/17$ $H2/23/17$ 91st General Assembly A $Bill$
2	91st General Assembly A B1II
3	Regular Session, 2017 HOUSE BILL 1048
4	
5	By: Representatives D. Meeks, C. Douglas
6	By: Senator Irvin
7	
8	For An Act To Be Entitled
9	AN ACT TO PERMIT VOLUNTARY RESPITE CARE; TO CREATE A
10	LICENSE EXEMPTION CONCERNING VOLUNTARY RESPITE CARE;
11	TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.
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14	Subtitle
15	TO PERMIT VOLUNTARY RESPITE CARE; TO
16	CREATE A LICENSE EXEMPTION CONCERNING
17	VOLUNTARY RESPITE CARE; AND TO DECLARE AN
18	EMERGENCY.
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21	BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23	SECTION 1. Arkansas Code § 9-28-402, concerning definitions, is
24	amended to read as follows:
25	(18) "Qualified nonprofit organization" means a charitable or
26	religious institution that is exempt from federal income taxation under
27	Section 501(a), Internal Revenue Code of 1986, as an organization described
28	by Section 501(c)(3), that assists a parent, guardian, or legal custodian of
29	a child with the process of entering into an authorization agreement in the
30	form of a power of attorney for voluntary respite care, including without
31	limitation identifying an appropriate voluntary respite care placement for
32	each child subject to the agreement and assisting a parent, guardian, or
33	legal custodian in locating and contacting a voluntary respite care provider;
34	$\frac{(18)}{(19)}$ "Relative" means a person within the fifth degree of
35	kinship by virtue of blood or adoption;
36	(19)(20) "Religious organization" means a church, synagogue, or

1 mosque or association of same whose purpose is to support and serve the 2 propagation of truly held religious beliefs; 3 (20)(21) "Residential child care facility" means any child 4 welfare agency that provides care, training, education, custody, or supervision on a twenty-four-hour basis for six (6) or more unrelated 5 6 children, excluding foster homes that have six (6) or more children who are 7 all related to each other but who are not related to the foster parents; 8 (21) (22) "Special consideration" means approval from the Child 9 Welfare Agency Review Board to allow a licensee to deviate from the letter of 10 a rule if the licensee has demonstrated that the deviation is in the best 11 interest of the children and does not pose a risk to persons served by the 12 licensee; (22)(A)(23)(A) "Substantial compliance" means compliance with 13 14 all essential standards necessary to protect the health, safety, and welfare 15 of the children in the care of the child welfare agency. 16 (B) Essential standards include, but are not limited to, 17 those relating to issues involving fire, health, safety, nutrition, 18 discipline, staff-to-child ratio, and space; 19 (23)(24) "Temporary camp" means any facility or program 20 providing twenty-four-hour care or supervision to children that meets the 21 following criteria: 22 (A) The facility or program is operated for recreational, 23 educational, or religious purposes only; 24 (B) No child attends the program more than forty (40) days 25 in a calendar year; and 26 (C) The parents of children placed in the program retain 27 custody and planning and financial responsibility for the children during 28 placement; and 29 (24)(25) "Unrelated minor" means a child who is not related by 30 blood, marriage, or adoption to the owner or operator of the child welfare 31 agency and who is not a ward of the owner or operator of the child welfare agency pursuant to a guardianship order issued by a court of competent 32 33 jurisdiction.; 34 (26)(A) "Voluntary respite care" means a temporary placement 35 arrangement facilitated by a qualified nonprofit organization that engages in 36 certain placement activities similar to a child placement agency or child

1	welfare agency.
2	(B) Voluntary respite care does not include placements
3	provided by a person or an entity that otherwise qualifies as an exempt child
4	welfare agency as that term is defined in this section; and
5	(27) "Voluntary respite care provider" means a person, approved
6	by a qualified nonprofit organization, who enters into a written agreement
7	with a parent, guardian, or legal custodian of a minor whereby:
8	(A) The parent, guardian, or legal custodian voluntarily
9	decides to place the minor into voluntary respite care and actively
10	participates in the process of placing the minor into voluntary respite care;
11	(B) The placement of a minor into voluntary respite care
12	is made for the purpose of assisting a family in crisis by providing a
13	temporary arrangement for the twenty-four-hour care of the minor;
14	(C) The parent, guardian, or legal custodian of the minor
15	retains the authority to terminate the voluntary respite care at any time and
16	may immediately regain physical custody of the minor; and
17	(D) The voluntary respite care provider does not engage in
18	an activity described in subdivision (8)(A) or subdivision (8)(D) of this
19	section.
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21	SECTION 2. Arkansas Code Title 9, Chapter 28, Subchapter 4, is amended
22	to add an additional section to read as follows:
23	9-28-410. Voluntary respite care agreement- Exemption and penalties.
24	(a)(l)(A) A voluntary respite care provider is exempt from obtaining a
25	license under § 9-28-407 if approved by a qualified nonprofit organization
26	under this section.
27	(B) A voluntary respite care provider shall be approved by
28	a qualified nonprofit organization before it is eligible to enter into a
29	voluntary respite care agreement with a parent, guardian, or legal custodian
30	under this section.
31	(2) In order to approve a voluntary respite care provider, a
32	qualified nonprofit organization shall ensure that a voluntary respite care
33	provider:
34	(A) Successfully completes a:
35	(i) Fingerprint-based criminal background check
36	performed by the Federal Rureau of Investigation:

1	(ii) Criminal records check with the Identification
2	Bureau of the Department of Arkansas State Police; and
3	(iii) Child Maltreatment Central Registry check; and
4	(B) Is trained by the qualified nonprofit organization.
5	(3)(A) The qualified nonprofit organization shall maintain the
6	training, background checks, and Child Maltreatment Central Registry check
7	records under subdivision (a)(2) of this section, including the content and
8	dates of training and full transcripts of the background checks and Child
9	Maltreatment Central Registry check, for a period of not less than five (5)
10	years after the minor attains eighteen (18) years of age.
11	(B) The qualified nonprofit organization shall make the
12	records under subdivision (a)(3)(A) of this section available to a parent,
13	guardian, or legal custodian who executes a voluntary respite care agreement
14	in the form of a power of attorney under this section and any local, state,
15	or federal authority conducting an investigation involving the voluntary
16	respite care provider, parent, guardian, legal custodian, or the minor.
17	(b)(1)(A) A power of attorney concerning voluntary respite care shall
18	be between the parent, guardian, or legal custodian of a minor and the
19	voluntary respite care provider, and the power of attorney shall not include
20	or involve another person, entity, or agency, including without limitation
21	other qualified nonprofit organizations.
22	(B) The power of attorney shall be valid for no longer
23	than one (1) year.
24	(2) The power of attorney in subdivision (b)(1) of this section
25	that details the voluntary respite care arrangement may address physical
26	custody issues, including emergency medical treatment, but it shall not
27	transfer legal custody of the minor to the voluntary respite care provider.
28	(3) The execution of a power of attorney in subdivision (b)(1)
29	of this section between a parent, guardian, or legal custodian, and a
30	voluntary respite care provider shall not alone constitute child maltreatment
31	under the Child Maltreatment Act, § 12-18-101 et seq.
32	(4) This section shall not be interpreted to prevent or
33	otherwise limit the investigation of child maltreatment or a finding of child
34	maltreatment where there is evidence of child maltreatment beyond the
35	voluntary respite agreement between the voluntary respite care provider and
36	the parent, guardian, or legal custodian.

1	(c)(l) A qualified nonprofit organization that knowingly fails to
2	perform or verify the background and Child Maltreatment Central Registry
3	check under subdivision (a)(2) of this section is subject to a civil penalty
4	not to exceed five thousand dollars (\$5,000), payable to the state and
5	recoverable in a civil action.
6	(2) A qualified nonprofit organization or an employee or
7	volunteer of a qualified nonprofit organization that continues to assist a
8	parent, guardian, legal custodian, or voluntary respite care provider in
9	completing a power of attorney under this section when the background checks
10	and Child Maltreatment Central Registry check conducted under subdivision
11	(a)(2)(A) of this section disclose substantiated allegations of child abuse,
12	neglect, exploitation, or similar crime is subject to a civil penalty not to
13	exceed five thousand dollars (\$5,000), payable to the state and recoverable
14	in a civil action.
15	(3) A qualified nonprofit organization or an employee or
16	volunteer of a qualified nonprofit organization that knowingly fails to
17	maintain records as required under subdivision (a)(3)(A) of this section or
18	that knowingly fails to disclose information as required under subdivision
19	(a)(3)(B) of this section is subject to a civil penalty not to exceed five
20	thousand dollars (\$5,000), payable to the state and recoverable in a civil
21	action.
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23	SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
24	General Assembly of the State of Arkansas that the ability to place a minor
25	into voluntary respite care provides meaningful assistance to a family in
26	crisis by providing a temporary arrangement for the twenty-four-hour care of
27	the minor; that voluntary respite care provides the least intrusive solution
28	to a family crisis; and that this act is immediately necessary to ensure the
29	stability and unity of families in Arkansas. Therefore, an emergency is
30	declared to exist, and this act being immediately necessary for the
31	preservation of the public peace, health, and safety shall become effective
32	<u>on:</u>
33	(1) The date of its approval by the Governor;
34	(2) If the bill is neither approved nor vetoed by the Governor,
35	the expiration of the period of time during which the Governor may veto the
36	bill; or

1	(3) If the bill is vetoed by the Governor and the veto is
2	overridden, the date the last house overrides the veto.
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4	/s/D. Meeks
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7	APPROVED: 03/02/2017
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