

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

As Engrossed: H3/25/19

# A Bill

SENATE BILL 273

5 By: Senator Bledsoe  
6 By: Representative L. Johnson  
7

## For An Act To Be Entitled

9 AN ACT TO CLARIFY THAT AN EXPERT WITNESS TESTIFYING  
10 OR OFFERING OPINIONS REGARDING AN ADMINISTRATIVE  
11 PROCEEDING BEFORE A BOARD OF ANY PROFESSION OR  
12 OCCUPATION CLASSIFIED UNDER THE LAWS OF THE STATE OF  
13 ARKANSAS AS A PROFESSION OF THE HEALING ARTS HAS  
14 IMMUNITY; TO DECLARE AN EMERGENCY; AND FOR OTHER  
15 PURPOSES.  
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## Subtitle

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19 TO CLARIFY THAT AN EXPERT WITNESS  
20 TESTIFYING OR OFFERING OPINIONS REGARDING  
21 AN ADMINISTRATIVE PROCEEDING BEFORE A  
22 BOARD OF ANY PROFESSION OR OCCUPATION  
23 CLASSIFIED AS A PROFESSION OF HEALING  
24 ARTS HAS IMMUNITY.  
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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29 SECTION 1. Arkansas Code § 17-80-103 is amended to read as follows:

30 17-80-103. Immunity of board members and individuals acting on behalf  
31 of boards including expert witnesses.

32 ~~No~~ A member of a board or any individual acting on behalf of the board  
33 of any profession or occupation classified under the laws of the State of  
34 Arkansas as a profession of the healing arts, including an expert witness  
35 testifying or offering opinions, or both, regarding an administrative  
36 proceeding before a board of a profession or occupation classified as a



1 profession of the healing arts, shall be is not liable in damages to any  
2 person for slander, libel, defamation of character, breach of any privileged  
3 communication, or otherwise for any action taken or recommendation made  
4 within the scope of the functions of the board if the board member or the  
5 individual acting on behalf of the board, including an expert witness  
6 testifying or offering opinions, or both, regarding an administrative  
7 proceeding before a board of a profession or occupation classified as a  
8 profession of the healing arts, acts without malice and in the reasonable  
9 belief that the action or recommendation is warranted by the facts known to  
10 him or her after a reasonable effort is made to obtain the facts on which the  
11 action is taken or the recommendation is made.

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13 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
14 General Assembly of the State of Arkansas that boards of any profession or  
15 occupation classified under the laws of this state as a profession of healing  
16 arts often utilize expert witnesses; that the boards are having difficulty  
17 finding expert witnesses willing to testify because expert witnesses are not  
18 explicitly granted immunity from suit and judgment and may be subject to  
19 lawsuits based on their testimonies or opinions; that the powers of the  
20 boards are impaired by the difficulty of finding expert witnesses to testify,  
21 which hinders the boards' statutory duty to protect the health and welfare of  
22 the citizens of the State of Arkansas; that granting immunity from suit and  
23 judgment to expert witnesses testifying or offering opinions, or both,  
24 regarding an administrative proceeding before boards is a clarification of  
25 the existing law that would help protect the health and welfare of the  
26 citizens of the State of Arkansas; and that this act is immediately necessary  
27 to ensure the boards can fulfill their statutory duty to protect of health  
28 and welfare of the citizens of the State of Arkansas. Therefore, an emergency  
29 is declared to exist, and this act being immediately necessary for the  
30 preservation of the public peace, health, and safety shall become effective  
31 on:

32 (1) The date of its approval by the Governor;

33 (2) If the bill is neither approved nor vetoed by the Governor,  
34 the expiration of the period of time during which the Governor may veto the  
35 bill; or

36 (3) If the bill is vetoed by the Governor and the veto is

1 overridden, the date the last house overrides the veto.

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*/s/Bledsoe*

**APPROVED: 4/4/19**