

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: S3/17/21

A Bill

SENATE BILL 376

5 By: Senator L. Chesterfield
6 By: Representatives Scott, Richardson
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For An Act To Be Entitled

9 AN ACT PROHIBITING A LAW ENFORCEMENT AGENCY FROM
10 DENYING MEDICAL CARE TO A PERSON IN CUSTODY; TO
11 PROVIDE FOR CIVIL AND CRIMINAL ACTIONS FOR DENYING
12 MEDICAL CARE TO A PERSON IN CUSTODY; REQUIRING
13 TRAINING BY CORRECTIONAL FACILITY PERSONNEL; AND FOR
14 OTHER PURPOSES.
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Subtitle

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18 PROHIBITING THE DENIAL OF MEDICAL CARE TO
19 A PERSON IN CUSTODY; TO PROVIDE FOR CIVIL
20 AND CRIMINAL ACTIONS FOR DENYING MEDICAL
21 CARE TO A PERSON IN CUSTODY; AND TO
22 REQUIRE TRAINING.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Arkansas Code Title 5, Chapter 60, Subchapter 1, is amended
28 to add an additional section to read as follows:

29 5-60-126. Denial of medical care prohibited – Law enforcement agency
30 and correctional facility.

31 (a) As used in this section:

32 (1) "Correctional facility" includes without limitation a:

33 (A) Facility of the Division of Correction;

34 (B) Facility of the Division of Community Correction;

35 (C) Juvenile detention facility;

36 (D) County jail;



- 1 (E) Regional detention facility;
2 (F) City jail; and
3 (G) Detention facility operated by a local government; and
4 (2) "Medical distress" includes without limitation the following
5 conditions:
6 (A) Breathing difficulty;
7 (B) A migraine headache;
8 (C) An adverse mental health episode;
9 (D) Muscle pain; and
10 (E) A need for immediate medical care.

11 (b)(1) An employee of a law enforcement agency or a correctional
12 facility who negligently fails to make a good faith effort to obtain
13 immediate medical attention for or provide immediate medical attention to a
14 person in custody who displays signs of medical distress in the employee's
15 presence and suffers unnecessary pain, physical injury, or death as a result
16 of the failure upon conviction is guilty of a Class A misdemeanor.

17 (2) An immediate supervisor of an employee who violates
18 subdivision (b)(1) of this section upon conviction is guilty of a Class A
19 misdemeanor.

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21 SECTION 2. Arkansas Code Title 12, Chapter 26, is amended to add an
22 additional section to read as follows:

23 12-26-110. Persons in custody – Medical distress – Training.

24 (a) As used in this section, "medical distress" means the same as
25 defined in § 5-60-126.

26 (b) A state agency, county sheriff, political subdivision, or other
27 entity that is authorized to hold or house a person in custody shall provide
28 training in first aid and in the identification of various signs of medical
29 distress for all employees who have or will have contact with persons in
30 custody.

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32 SECTION 3. Arkansas Code Title 12, Chapter 41, Subchapter 1, is
33 amended to add an additional section to read as follows:

34 12-41-109. Denial of medical care to person in custody – Investigation
35 and prosecution.

36 (a)(1)(A) If a person has reasonable cause to believe that he or she

1 has been unlawfully denied medical care while he or she is being or has been
2 held in custody, the person may bring a civil action in the circuit court
3 with jurisdiction or, subject to the laws governing the federal judiciary, in
4 a United States District Court to obtain appropriate equitable and
5 declaratory relief.

6 (B) If authorized by the Arkansas Constitution, sovereign
7 immunity is not a bar to an action under this section.

8 (2) The Prosecutor Coordinator shall establish a method that
9 permits a person with knowledge about the denial of medical care to a person
10 in custody to submit an anonymous and confidential complaint or report of
11 that knowledge.

12 (b) If a prosecuting attorney with jurisdiction has probable cause to
13 believe that a person who is being or has been held in custody has been
14 unlawfully denied medical care, the prosecuting attorney may bring criminal
15 charges in the circuit court with jurisdiction.

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18 /s/L. Chesterfield
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