

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

# A Bill

HOUSE BILL 1166

5 By: Representative A. Davis  
6 By: Senator Hester  
7

## For An Act To Be Entitled

9 AN ACT TO CREATE THE TRANSFORMATION AND EFFICIENCIES  
10 ACT OF 2019; TO ESTABLISH CABINET-LEVEL DEPARTMENTS;  
11 TO ESTABLISH THE CABINET-LEVEL DEPARTMENT OF HUMAN  
12 SERVICES; TO TRANSFER STATE ENTITIES; TO DECLARE AN  
13 EMERGENCY; AND FOR OTHER PURPOSES.  
14  
15

## Subtitle

16 TO CREATE THE TRANSFORMATION AND  
17 EFFICIENCIES ACT OF 2019; TO ESTABLISH  
18 CABINET-LEVEL DEPARTMENTS; TO ESTABLISH  
19 THE CABINET-LEVEL DEPARTMENT OF HUMAN  
20 SERVICES; TO TRANSFER STATE ENTITIES; AND  
21 TO DECLARE AN EMERGENCY.  
22  
23  
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
26

27 SECTION 1. Arkansas Code Title 25, Chapter 43, is amended to add an  
28 additional subchapter to read as follows:

### Subchapter 9 – Department of Human Services

30  
31 25-43-901. Department of Human Services.

32 There is created the Department of Human Services as a cabinet-level  
33 department.  
34

35 25-43-902. State entities transferred to the Department of Human  
36 Services.



1       (a) The administrative functions of the following state entities are  
2 transferred to the Department of Human Services:

3           (1) Arkansas Alcohol and Drug Abuse Coordinating Council,  
4 created under § 20-64-1002;

5           (2) Arkansas Drug Director, created under § 20-64-1001;

6           (3) Arkansas State Council for Interstate Juvenile Supervision,  
7 created under § 9-29-401;

8           (4) Board of Developmental Disabilities Services, created under  
9 § 20-48-203;

10          (5) Civilian Student Training Program, created under § 12-61-  
11 124;

12          (6) Division of Aging, Adult, and Behavioral Services of the  
13 Department of Human Services, created under § 20-46-301;

14          (7) Division of Child Care and Early Childhood Education,  
15 created under § 20-78-205;

16          (8) Division of Children and Family Services, created under §§  
17 9-28-102 and 25-10-102;

18          (9) Division of County Operations, created under § 25-10-102;

19          (10) Division of Developmental Disabilities Services, created  
20 under § 25-10-102;

21          (11) Division of Medical Services, created under § 25-10-102;

22          (12) Division of Provider Services and Quality Assurance,  
23 created under § 25-10-102;

24          (13) Division of Youth Services, created under §§ 9-28-202 and  
25 25-10-102; and

26          (14) Youth Justice Reform Board, created under § 9-28-1201.

27       (b) Each state entity transferred will retain its specified statutory  
28 powers and duties.

29       (c) State entities created as divisions of the Department of Human  
30 Services prior to the creation of the cabinet-level department shall continue  
31 to exercise the duties of the divisions under the administration of the  
32 cabinet-level Department of Human Services in the same manner as before the  
33 creation of the cabinet-level department.

34  
35       25-43-903. Secretary of the Department of Human Services.

36       (a) The executive head of the Department of Human Services shall be

1 the Secretary of the Department of Human Services.

2 (b) The secretary shall be appointed by the Governor with the consent  
 3 of the Senate and shall serve at the pleasure of the Governor.

4 (c) The secretary may delegate his or her functions, powers, and  
 5 duties to personnel of the Department of Human Services as he or she shall  
 6 deem desirable and necessary for the effective and efficient operation of the  
 7 department.

8  
 9 25-43-904. Civilian Student Training Program.

10 (a) There is created within the Department of Human Services the  
 11 Civilian Student Training Program.

12 (b) Juvenile participants in the Civilian Student Training Program at  
 13 Camp Joseph T. Robinson receiving services from the Arkansas National Guard  
 14 are authorized to receive a monetary stipend, not to exceed ten dollars  
 15 (\$10.00) per week to defray personal hygiene and other personal necessities.

16 (b) Juvenile participants are authorized to receive uniforms and  
 17 clothing items as determined by the staff to be appropriate for effective  
 18 participation in outdoor activities.

19 (c) Transportation to support Civilian Student Training Program  
 20 activities for juvenile participants and staff may be provided by commercial  
 21 lease or purchase of motor vehicles not to exceed six (6) vehicles.

22  
 23 SECTION 2. Arkansas Code § 5-2-315(a), concerning the discharge or  
 24 conditional release from psychiatric or psychological care, is amended to  
 25 read as follows:

26 (a)(1)(A) When the ~~Director~~ Secretary of the Department of Human  
 27 Services or his or her designee determines that a person acquitted has  
 28 recovered from his or her mental disease or defect to such an extent that his  
 29 or her release or his or her conditional release under a prescribed regimen  
 30 of medical, psychiatric, or psychological care or treatment would no longer  
 31 create a substantial risk of bodily injury to another person or serious  
 32 damage to the property of another person, the ~~director~~ secretary shall  
 33 promptly file an application for discharge or conditional release of the  
 34 person acquitted with the circuit court that ordered the commitment.

35 (B) In addition, if the person acquitted has an impairment  
 36 due to alcohol or substance abuse, the ~~director~~ secretary may petition the

1 circuit court for involuntary commitment under § 20-64-815.

2 (2) The ~~director~~ secretary shall send a copy of the application  
3 to the counsel for the person acquitted and to the attorney for the state.  
4

5 SECTION 3. Arkansas Code § 5-2-315(f)(1), concerning the discharge or  
6 conditional release from psychiatric or psychological care, is amended to  
7 read as follows:

8 (f)(1) Regardless of whether the ~~director~~ secretary or his or her  
9 designee has filed an application pursuant to a provision of subsection (a)  
10 of this section, and at any time during the commitment of the person  
11 acquitted, a person acquitted, his or her counsel, or his or her legal  
12 guardian may file with the circuit court that ordered the commitment a motion  
13 for a hearing to determine whether the person acquitted should be discharged  
14 from the facility in which the person acquitted is committed.  
15

16 SECTION 4. Arkansas Code § 5-2-316(a)(1), concerning the conditional  
17 release and the subsequent discharge, modification, or revocation of the  
18 conditional release, is amended to read as follows:

19 (a)(1) The ~~Director~~ Secretary of the Department of Human Services or  
20 his or her designee or a person conditionally released under § 5-2-315, or  
21 both, may apply to the court ordering the conditional release for discharge  
22 from or modification of the order granting conditional release on the ground  
23 that the person conditionally released under § 5-2-315 may be discharged or  
24 the order modified without danger to the person conditionally released under  
25 § 5-2-315 or to the person or property of another person.  
26

27 SECTION 5. Arkansas Code § 5-2-316(b)(2)(A), concerning the  
28 conditional release and the subsequent discharge, modification, or revocation  
29 of the conditional release, is amended to read as follows:

30 (2)(A) If an order is entered revoking the most recent order of  
31 conditional release under subdivision (b)(1) of this section, all conditions  
32 of the release shall be abated, and the person shall be ordered to be  
33 committed to the custody of the ~~director~~ secretary or the ~~director's~~  
34 secretary's designee.  
35

36 SECTION 6. Arkansas Code § 5-2-317(a), concerning the jurisdiction of

1 a circuit court over a person acquitted by reason of mental disease or defect  
2 and the venue for a hearing, is amended to read as follows:

3 (a) A circuit court has exclusive jurisdiction over a person acquitted  
4 by reason of mental disease or defect and committed to the custody of the  
5 ~~Director~~ Secretary of the Department of Human Services pursuant to § 5-2-  
6 314(b).

7  
8 SECTION 7. Arkansas Code § 5-55-104(a)-(e), concerning authorization  
9 for Medicaid by the Director of the Department of Human Services, are amended  
10 to read as follows:

11 (a) No potential Medicaid recipient is eligible for medical assistance  
12 unless he or she has authorized in writing the ~~Director~~ Secretary of the  
13 Department of Human Services to examine all records of the potential Medicaid  
14 recipient's own, or of those receiving or having received Medicaid benefits  
15 through him or her, whether or not the receipt of the benefits would be  
16 allowed by the Arkansas Medicaid Program, for the purpose of investigating  
17 whether any person may have committed the crime of Medicaid fraud or for use  
18 or potential use in any legal, administrative, or judicial proceeding.

19 (b) No person is eligible to receive any payment from the Arkansas  
20 Medicaid Program or its fiscal agents unless the person has authorized in  
21 writing the ~~director~~ secretary to examine all records for the purpose of  
22 investigating whether any person may have committed the crime of Medicaid  
23 fraud or for use or for potential use in any legal, administrative, or  
24 judicial proceeding.

25 (c) The Attorney General and the prosecuting attorneys are allowed  
26 access to all records of persons and Medicaid recipients under the Arkansas  
27 Medicaid Program to which the ~~director~~ secretary has access for the purpose  
28 of investigating whether any person may have committed the crime of Medicaid  
29 fraud or for use or potential use in any legal, administrative, or judicial  
30 proceeding.

31 (d) Notwithstanding any other law to the contrary, no person is  
32 subject to any civil or criminal liability for providing access to records to  
33 the ~~director~~ secretary, the Attorney General, or the prosecuting attorneys.

34 (e) Records obtained by the ~~director~~ secretary, the Attorney General,  
35 or the prosecuting attorneys pursuant to this subchapter are classified as  
36 confidential information and are not subject to outside review or release by

1 any individual except when records are used or potentially to be used by any  
 2 government entity in any legal, administrative, or judicial proceeding.

3  
 4 SECTION 8. Arkansas Code § 5-55-110 is amended to read as follows:

5 5-55-110. Suspension of violators.

6 The ~~Director~~ Secretary of the Department of Human Services may suspend  
 7 or revoke the provider agreement between the Department of Human Services and  
 8 a person in the event the person is found guilty of violating a provision of  
 9 this subchapter.

10  
 11 SECTION 9. Arkansas Code § 5-55-111(7)(B)(iii)(b), concerning criminal  
 12 acts constituting Medicaid fraud, is amended to read as follows:

13 (b) In the case of an entity that is a  
 14 provider of services as defined in § 20-9-101, the person discloses in such  
 15 form and manner as the ~~Director~~ Secretary of the Department of Human Services  
 16 requires to the entity and, upon request, to the ~~director~~ secretary, the  
 17 amount received from each vendor with respect to purchases made by or on  
 18 behalf of the entity; or

19  
 20 SECTION 10. Arkansas Code § 5-55-111(7)(B)(iv), concerning criminal  
 21 acts constituting Medicaid fraud, is amended to read as follows:

22 (iv) Any payment practice specified by the ~~director~~  
 23 secretary promulgated pursuant to applicable federal or state law;

24  
 25 SECTION 11. Arkansas Code § 6-11-208(a)(1) and (2), concerning  
 26 creation of multiagency task force for Regional Education Career Alternative  
 27 School System for Adjudicated Youth, are amended to read as follows:

28 (a)(1) A multiagency task force, staffed and supported by the  
 29 ~~Department~~ Division of Career Education, is established and shall consist of  
 30 five (5) members, including:

- 31 (A) The Commissioner of Education or his or her designee;
- 32 (B) The Director of the ~~Department~~ Division of Career  
 33 Education or his or her designee;
- 34 (C) The Director of the ~~Department~~ Division of Higher  
 35 Education or his or her designee;
- 36 (D) The ~~Director~~ Secretary of the Department of Human

1 Services or his or her designee; and

2 (E) The Director of the ~~Department~~ Division of Workforce  
 3 Services or his or her designee.

4 (2) Funding for the multiagency task force shall be provided by:

5 (A) The ~~Department~~ Division of Career Education; or

6 (B) Each agency that serves on the multiagency task force,  
 7 in an equal amount.

8  
 9 SECTION 12. Arkansas Code § 9-27-310(c), concerning the commencement  
 10 of proceedings, is amended to read as follows:

11 (c) Concurrent with filing, a copy of any petition that requests that  
 12 the Department of Human Services take custody or provide family services  
 13 shall be mailed to the ~~Director~~ Secretary of the Department of Human Services  
 14 and to the attorney of the local Office of Chief Counsel of the Department of  
 15 Human Services by the petitioner.

16  
 17 SECTION 13. Arkansas Code § 9-27-333(a), concerning the disposition of  
 18 family service funds and limitations, is amended to read as follows:

19 (a) At least five (5) working days before ordering the Department of  
 20 Human Services, excluding community-based providers, to provide or pay for  
 21 family services, the circuit court shall fax a written notice of intent to  
 22 the ~~Director~~ Secretary of the Department of Human Services and to the  
 23 attorney of the local Office of Chief Counsel of the Department of Human  
 24 Services.

25  
 26 SECTION 14. Arkansas Code § 9-27-335(a)(1), concerning the limitations  
 27 on the disposition of family service funds, is amended to read as follows:

28 (a)(1) At least five (5) working days before ordering the Department  
 29 of Human Services, excluding community-based providers, to provide or pay for  
 30 family services in any case in which the department is not a party, the  
 31 circuit court shall fax a written notice of intent to the ~~Director~~ Secretary  
 32 of the Department of Human Services and to the attorney of the local office  
 33 of chief counsel of the department.

34  
 35 SECTION 15. Arkansas Code § 9-28-119(b)(2), concerning the definitions  
 36 in regard to the Department of Human Services' power to obtain information,

1 is amended to read as follows:

2 (2) The ~~Director~~ Secretary of the Department of Human Services  
3 may enter into cooperative agreements with other state agencies, businesses,  
4 or financial entities to provide direct online access to data information  
5 terminals, computers, or other electronic information systems.

6  
7 SECTION 16. Arkansas Code § 9-28-202(b), concerning creation of the  
8 Division of Youth Services and the Director of the division of Youth Services  
9 of the Department of Human Services, is amended to read as follows:

10 (b) The Governor may appoint the Director of the Division of Youth  
11 Services of the Department of Human Services or may delegate that function to  
12 the ~~Director~~ Secretary of the Department of Human Services.

13  
14 SECTION 17. Arkansas Code § 9-28-301(a), concerning the inspections,  
15 timing, report, and audit of facilities operated by the Division of Youth  
16 Services by the Director of the Department of Human Services, is amended to  
17 read as follows:

18 (a) In order to assure that juveniles committed to facilities operated  
19 by or under contract with the Division of Youth Services of the Department of  
20 Human Services are not subject to unsafe and unsanitary living conditions,  
21 the ~~Director~~ Secretary of the Department of Human Services or a duly  
22 authorized agent is authorized to enter the controlled premises and conduct  
23 random and unannounced health inspections of the facilities.

24  
25 SECTION 18. Arkansas Code § 9-28-301(e) and (f), concerning the  
26 inspections, timing, report, and audit of facilities operated by the Division  
27 of Youth Services by Director of the Department of Human Services, are  
28 amended to read as follows:

29 (e)(1) The ~~Director~~ Secretary of the Department of Health shall  
30 present a list of findings of the random health inspections to the House  
31 Committee on Aging, Children and Youth, Legislative and Military Affairs and  
32 the Senate Interim Committee on Children and Youth within one (1) month after  
33 completing the random health inspections.

34 (2)(A) In the event the General Assembly is in session, the  
35 ~~Director~~ Secretary of the Department of Health shall provide the report to  
36 the House Committee on Aging, Children and Youth, Legislative and Military



1 Affairs and the Chair of the Senate Committee on Children and Youth.

2 (B) The complete report, including, but not limited to,  
3 statistics shall be made available to the public.

4 (f)(1) The ~~Director~~ Secretary of the Department of Human Services or  
5 the division shall file the report, along with a response not to exceed two  
6 (2) pages, to the House Committee on Aging, Children and Youth, Legislative  
7 and Military Affairs and the Senate Interim Committee on Children and Youth  
8 within thirty (30) days after receiving an inspection report prepared by the  
9 Department of Health.

10 (2) In the event the General Assembly is in session, the  
11 ~~Director~~ Secretary of the Department of Human Services shall provide the  
12 response to the House Committee on Aging, Children and Youth, Legislative and  
13 Military Affairs and the Chair of the Senate Committee on Children and Youth.

14 (3) The response shall include a plan of correction and suggest  
15 a means by which the Department of Human Services or the division will  
16 correct any deficiencies within thirty (30) days of the filing of the report  
17 or within the time frame determined by the Department of Health to ensure the  
18 health and safety of the juveniles housed at the facility.

19  
20 SECTION 19. Arkansas Code § 9-28-301(g)(4), concerning the  
21 inspections, timing, report, and audit of juvenile detention facilities  
22 operated by the Division of Youth Services by the Director of the Department  
23 of Human Services, is amended to read as follows:

24 (4) In the event the General Assembly is in session, the  
25 ~~Director~~ Secretary of the Department of Human Services shall provide the  
26 report to the House Committee on Aging, Children and Youth, Legislative and  
27 Military Affairs and the Chair of the Senate Committee on Children and Youth.

28  
29 SECTION 20. Arkansas Code § 9-28-301(h), concerning the inspections,  
30 timing, report, and audit of juvenile detention facilities operated by the  
31 Division of Youth Services by the Director of the Department of Human  
32 Services, is amended to read as follows:

33 (h) The ~~Director~~ Secretary of the Department of Human Services shall  
34 be required to close any facility when deficiencies are deemed by the  
35 Department of Health to be a danger to the health or safety of juveniles  
36 housed at such a facility.

1  
2 SECTION 21. Arkansas Code § 9-28-302(f)(1) and (2), concerning  
3 security inspections of juvenile detention facilities operated by the  
4 Division of Youth Services, are amended to read as follows:

5 (f)(1) The ~~Director~~ Secretary of the Department of Human Services or  
6 the division shall file the report, along with a response not to exceed two  
7 (2) pages, to the House Committee on Aging, Children and Youth, Legislative  
8 and Military Affairs and the Senate Interim Committee on Children and Youth  
9 within thirty (30) days of receiving an inspection report prepared by the  
10 Department of Correction.

11 (2) In the event the General Assembly is in session, the  
12 ~~Director~~ Secretary of the Department of Human Services shall provide the  
13 response to the House Committee on Aging, Children and Youth, Legislative and  
14 Military Affairs and the Chair of the Senate Committee on Children and Youth.  
15

16 SECTION 22. Arkansas Code § 9-28-302(g)(3)(B), concerning security  
17 inspections of juvenile detention facilities operated by the Division of  
18 Youth Services, is amended to read as follows:

19 (B) In the event the General Assembly is in session, the  
20 ~~Director~~ Secretary of the Department of Human Services shall provide the  
21 report to the House Committee on Aging, Children and Youth, Legislative and  
22 Military Affairs and the Chair of the Senate Committee on Children and Youth.  
23

24 SECTION 23. Arkansas Code § 9-28-302(h), concerning security  
25 inspections of juvenile detention facilities operated by the Division of  
26 Youth Services, is amended to read as follows:

27 (h) The ~~Director~~ Secretary of the Department of Human Services shall  
28 be required to close any facility when deficiencies are deemed by the  
29 Department of Correction to be a danger to the health or safety of juveniles  
30 housed at such facility.  
31

32 SECTION 24. Arkansas Code § 9-28-404(a)(1), concerning the composition  
33 of the Child Welfare Agency Review Board, is amended to read as follows:

34 (1) The director of the division within the Department of Human  
35 Services designated by the ~~Director~~ Secretary of the Department of Human  
36 Services to administer this subchapter or his or her designee;

1  
2 SECTION 25. Arkansas Code § 9-28-1201(b)(2)(C), concerning the  
3 creation and membership of the Youth Justice Reform Board, is amended to read  
4 as follows:

5 (C) Representatives from the Department of Education, ~~Department~~  
6 Division of Workforce Services, the Division of Children and Family Services  
7 of the Department of Human Services, and the Division of Aging, Adult, and  
8 Behavioral Health Services of the Department of Human Services;

9  
10 SECTION 26. Arkansas Code § 9-29-204 is amended to read as follows:

11 9-29-204. ~~Director~~ Secretary of the Department of Human Services to  
12 determine when to discharge child.

13 As used in paragraph (a) of Article V of the Interstate Compact on the  
14 Placement of Children, the phrase "appropriate authority in the receiving  
15 state" with reference to this state means the ~~Director~~ Secretary of the  
16 Department of Human Services.

17  
18 SECTION 27. Arkansas Code § 9-29-205 is amended to read as follows:

19 9-29-205. Agreements with other states pursuant to the compact.

20 The officers and agencies of this state and its subdivisions having  
21 authority to place children are empowered to enter into agreements with  
22 appropriate officers or agencies of or in other party states ~~pursuant to~~  
23 under paragraph (b) of Article V of the Interstate Compact on the Placement  
24 of Children. Any such agreement which contains a financial commitment or  
25 imposes a financial obligation on this state or subdivision, or agency  
26 thereof shall not be binding unless it has the approval in writing of the  
27 ~~Director~~ Secretary of the Department of Human Services in the case of the  
28 state and of the chief local fiscal officer in the case of a subdivision of  
29 the state.

30  
31 SECTION 28. Arkansas Code § 9-31-201(3), concerning the definition of  
32 "director" under the assessment, diagnosis, evaluation, placement, and  
33 treatment services program, is repealed.

34 (3) ~~"Director Secretary" means the Director Secretary of the~~  
35 ~~Department of Human Services.~~

36

1 SECTION 29. Arkansas Code § 9-31-202(1)(B), concerning the objectives  
2 and duties of the ADEPT program, is amended to read as follows:

3 (B) The target population to be served by this type of  
4 program shall be defined by the ~~Director~~ Secretary of the Department of Human  
5 Services;

6  
7 SECTION 30. Arkansas Code § 9-31-202(12)-(14), concerning the  
8 objectives and duties of the ADEPT program, are amended to read as follows:

9 (12) Submit monthly reports to the ~~director~~ secretary that  
10 include intake, closure, and follow-up data;

11 (13) Provide quarterly reports to the ~~director~~ secretary and to  
12 the Bureau of Legislative Research; and

13 (14) Submit an annual report to the ~~director~~ secretary and to  
14 the bureau summarizing the monthly reports and additional information,  
15 including, but not limited to, the types of problems identified, treatment  
16 services provided, and any identifiable service future needs.

17  
18 SECTION 31. Arkansas Code § 9-32-206(a), concerning the provision of  
19 information and assistance from the divisions within the Department of Human  
20 Services, is amended to read as follows:

21 (a) The Division of Youth Services of the Department of Human  
22 Services, the Division of Aging, Adult, and Behavioral Health Services of the  
23 Department of Human Services, and the Division of Children and Family  
24 Services of the Department of Human Services shall make available to the  
25 Senate Interim Committee on Children and Youth a list of all reports the unit  
26 submits to the ~~Director~~ Secretary of the Department of Human Services.

27 (b) Under the direction of the ~~director~~ secretary, the Division of  
28 Youth Services, the Division of Aging, Adult, and Behavioral Health Services,  
29 and the Division of Children and Family Services shall work cooperatively  
30 with and provide any necessary assistance to the Senate Interim Committee on  
31 Children and Youth.

32  
33 SECTION 32. Arkansas Code § 10-3-2602(b)(3), concerning the creation  
34 of the Arkansas Legislative Task Force on Autism, is amended to read as  
35 follows:

36 (3) One (1) member who is an employee of the Division of Medical

1 Services of the Department of Human Services, appointed by the ~~Director~~  
 2 Secretary of the Department of Human Services;

3  
 4 SECTION 33. Arkansas Code § 10-3-2602(b)(12) and (13), concerning the  
 5 creation of the Arkansas Legislative Task Force on Autism, are amended to  
 6 read as follows:

7 (12) The Behavior Intervention Services Coordinator for the  
 8 ~~Department of Education~~ Division of Primary and Secondary Education;

9 (13) The Associate Director of Special Education of the  
 10 ~~Department of Education~~ Division of Primary and Secondary Education;

11  
 12 SECTION 34. Arkansas Code § 10-3-2802(b)(4), concerning the creation  
 13 of the Interagency Task Force for the Implementation of Criminal Justice  
 14 Prevention Initiatives, is amended to read as follows:

15 (4) One (1) member appointed by the ~~Director~~ Secretary of the  
 16 Department of Human Services who represents the Division of Aging, Adult, and  
 17 Behavioral Health Services of the Department of Human Services;

18  
 19  
 20 SECTION 35. Arkansas Code § 10-3-2901(b)(7), concerning the creation  
 21 of the Specialty Court Program Advisory Committee, is amended to read as  
 22 follows:

23 (7) The ~~Director~~ Secretary of the Department of Human Services  
 24 or the ~~director's~~ secretary's designee;

25  
 26 SECTION 36. Arkansas Code § 12-12-1719 is amended to read as follows:  
 27 12-12-1719. Delegation of authority.

28 The ~~Director~~ Secretary of the Department of Human Services may assign  
 29 responsibilities for administering the various duties imposed upon the  
 30 Department of Human Services under this subchapter to respective divisions of  
 31 the department that in the ~~director's~~ secretary's opinion are best able to  
 32 render service or administer the provisions of this subchapter.

33  
 34 SECTION 37. Arkansas Code § 12-12-1723 is amended to read as follows:  
 35 12-12-1723. Rules.

36 The ~~Director~~ Secretary of the Department of Human Services may adopt

1 rules to implement this subchapter.

2  
3 SECTION 38. Arkansas Code § 12-18-106(b), concerning cooperative  
4 agreements initiated by the Department of Human Services and the Department  
5 of Arkansas State Police, is amended to read as follows:

6 (b) The ~~Director~~ Secretary of the Department of Human Services may  
7 enter into cooperative agreements with other states to create a national  
8 child maltreatment registration system.

9  
10 SECTION 39. Arkansas Code § 12-18-908(f), concerning the removal of a  
11 name from the Child Maltreatment Central Registry, is amended to read as  
12 follows:

13 (f) The ~~Director~~ Secretary of the Department of Human Services shall  
14 adopt rules necessary to carry out this chapter pursuant to the Arkansas  
15 Administrative Procedure Act, § 25-15-201 et seq., except that the ~~director~~  
16 secretary shall not begin the process under the Arkansas Administrative  
17 Procedure Act, § 25-15-201 et seq., until the proposed rules have been  
18 reviewed by the House Committee on Aging, Children and Youth, Legislative and  
19 Military Affairs and the Senate Interim Committee on Children and Youth.

20  
21 SECTION 40. Arkansas Code § 15-4-3705(b)(2)(D), concerning the  
22 Arkansas Workforce Development Board committees, is amended to read as  
23 follows:

24 (D) The Director of the ~~Department~~ Division of Workforce  
25 Services; and

26  
27 SECTION 41. Arkansas Code § 16-87-216(c)(13)(B)(i), concerning the  
28 Juvenile Ombudsman Division of the Arkansas Public Defender Commission, is  
29 amended to read as follows:

30 (i) The ~~Director~~ Secretary of the Department of  
31 Human Services and the Director of the Division of Youth Services of the  
32 Department of Human Services;

33  
34 SECTION 42. Arkansas Code § 19-5-306(6)(A), concerning the Department  
35 of Human Services Administration Fund Account, is amended to read as follows:

36 (A) The Department of Human Services Administration Fund

1 Account shall be used for the maintenance, operation, and improvement  
2 required by the office of the ~~Director~~ Secretary of the Department of Human  
3 Services in carrying out the administrative duties and shared business  
4 services of the Department of Human Services as set out in and under the  
5 restrictions and provisions of § 20-46-301 and § 25-10-101 et seq.

6  
7 SECTION 43. Arkansas Code § 19-5-953(b) and (c), concerning the Long-  
8 Term Care Trust Fund, are amended to read as follows:

9 (b) The Long-Term Care Trust Fund shall consist of all moneys and  
10 interest received from the imposition of civil penalties levied by the state  
11 on long-term care facilities found to be out of compliance with the  
12 requirements of federal or state law or regulations, there to be administered  
13 by the ~~Director~~ Secretary of the Department of Human Services solely for the  
14 protection of the health or property of residents of long-term care  
15 facilities, including, but not limited to, the payment for the costs of  
16 relocation of residents to other facilities, maintenance and operation of a  
17 facility pending correction of deficiencies or closure, and reimbursement of  
18 residents for personal funds lost.

19 (c) Funds from the Long-term Care Trust Fund may also be administered  
20 by the ~~Director~~ Secretary of the Department of Human Services for programs or  
21 uses that, in the determination of the Director of the Office of Long-Term  
22 Care, enhance the quality of life for long-term care facility residents  
23 through the adoption of principles and building designs established by the  
24 Eden Alternative, Inc., or Green House Project programs or other means.

25  
26 SECTION 44. Arkansas Code § 19-5-1020(d), concerning the Department of  
27 Human Services Renovation Fund, is amended to read as follows:

28 (d)(1) At the request of the ~~Director~~ Secretary of the Department of  
29 Human Services and upon certification of the availability of such funds, the  
30 Chief Fiscal Officer of the State shall initiate the necessary transfer  
31 documents to reflect the transfer on the books of record of the Treasurer of  
32 State, the Auditor of State, the Chief Fiscal Officer of the State, and the  
33 department.

34 (2) The ~~director~~ secretary shall submit any transfer plan to and  
35 must receive approval of the plan from the Chief Fiscal Officer of the State,  
36 the Governor, and the Legislative Council prior to the effective date of the

1 transfer.

2

3 SECTION 45. Arkansas Code § 19-5-1047(d)(2), concerning definitions  
4 under the Arkansas Medicaid Rebate Program Revolving Fund Act of 1991, is  
5 amended to read as follows:

6 (2) Any moneys accruing to the department through these rebates  
7 shall be deposited into the State Treasury as nonrevenue receipts to be  
8 credited to the fund and transferred by the ~~Director~~ Secretary of the  
9 Department of Human Services to the Department of Human Services Medicaid  
10 Paying Accounts Account to be used solely for paying pharmacy claims in the  
11 Arkansas Medicaid Drug Rebate Program.

12

13 SECTION 46. Arkansas Code § 19-5-1077(b), concerning the Client  
14 Specific Emergency Services Revolving Fund Paying Account of the Office of  
15 Finance and Administration, is amended to read as follows:

16 (b) The account shall be established and maintained in accordance with  
17 procedures established by the Chief Fiscal Officer of the State for cash  
18 funds and shall be administered under the direction of the ~~Director~~ Secretary  
19 of the Department of Human Services.

20

21 SECTION 47. Arkansas Code § 19-7-606 is amended to read as follows:

22 19-7-606. Transfer of reimbursements.

23 The ~~Director~~ Secretary of the Department of Human Services is  
24 authorized to transfer from the Department of Human Services federal funds as  
25 designated by the Chief Fiscal Officer of the State to the appropriate state  
26 fund account those federal funds recovered as reimbursement for indirect  
27 costs which are not required to be transferred to the Constitutional Officers  
28 Fund or State Central Services Fund pursuant to this subchapter.

29

30 SECTION 48. Arkansas Code § 19-7-701(a) and (b), concerning contract  
31 services and advance payment, are amended to read as follows:

32 (a) In order to provide effective purchased services to the needy  
33 citizens of Arkansas, the ~~Director~~ Secretary of the Department of Human  
34 Services is authorized to pay one-twelfth (1/12) of the total amount of a  
35 Title XX contract to the service provider on the effective date of the  
36 contract. The amount of the advance payment shall be adjusted out of the



1 reimbursement actually earned by the provider during the contract period.

2 (b) This section will be used only after the ~~director~~ secretary has  
3 conducted a study of the financial condition of the contracting agency to  
4 determine if an advance payment is necessary. If the advance is necessary,  
5 the ~~director~~ secretary shall forward his or her request and the reasons  
6 therefor to the Chief Fiscal Officer of the State for approval.

7  
8 SECTION 49. Arkansas Code § 19-7-703(a), concerning loan provisions  
9 for the Department of Human Services, is amended to read as follows:

10 (a) It is found and determined that the continued operations of the  
11 Title XX Services Program of the Department of Human Services, in accordance  
12 with the approved annual operations plan, are, from time to time, seriously  
13 impaired by either administrative oversights and delays by the United States  
14 Office of Grants Management or by the processes of federal fiscal year  
15 conversion. It is further found and determined that such delays in the proper  
16 preparation and transmittal of federal grant award authorizations and letter  
17 of credit instruments have created unnecessary hardships on the providers of  
18 services and the needy citizens of this state. Therefore, upon certification  
19 of the pending availability of federal funding by the ~~Director~~ Secretary of  
20 the Department of Human Services, the Chief Fiscal Officer of the State may  
21 grant temporary advances, the maximum amount not to exceed five million  
22 dollars (\$5,000,000), from the Budget Stabilization Trust Fund to the  
23 appropriate account of the Department of Human Services so affected by such  
24 delays.

25  
26 SECTION 50. Arkansas Code § 19-7-705 is amended to read as follows:

27 19-7-705. Use of funds.

28 The ~~Director~~ Secretary of the Department of Human Services is  
29 authorized to use funds earned through service fees, audit settlements, or  
30 federal program settlements for operation of the Title XX service program.  
31 Any unanticipated federal funding received under this provision will be  
32 handled in accordance with the terms of the Miscellaneous Federal Grant Act,  
33 § 19-7-501 et seq.

34  
35 SECTION 51. Arkansas Code § 19-7-706(a)(1), concerning the transfer of  
36 funds and appropriations, is amended to read as follows:

1 (a)(1) The ~~Director~~ Secretary of the Department of Human Services, in  
2 accordance with rules established by the Chief Fiscal Officer of the State,  
3 shall have the authority to transfer funds and appropriations from the  
4 appropriate division of the Department of Human Services to the various  
5 agencies of the department which receive allotments of Title XX funds. These  
6 transfers shall be limited to the allotment of funds available to each agency  
7 within the department.

8  
9 SECTION 52. Arkansas Code § 19-7-706(b), concerning the transfer of  
10 funds and appropriations, is amended to read as follows:

11 (b) The Chief Fiscal Officer of the State and the ~~director~~ secretary  
12 shall cooperate to establish such fund accounts for deposit and disbursement  
13 of federal and local Title XX funds as are necessary for the orderly  
14 operation of a Title XX services program. The Chief Fiscal Officer of the  
15 State and the ~~director~~ secretary shall establish procedures for the transfers  
16 of funds necessary to make reimbursement to providers or to agency fund  
17 accounts in payment for eligible services. These procedures will include  
18 provision for use of state matching funds where appropriated by law.

19  
20 SECTION 53. Arkansas Code § 20-3-104(b), concerning the creation of  
21 the Achieving a Better Life Experience Program Trust, is amended to read as  
22 follows:

23 (b) The cotrustees of the trust shall be the ~~Director~~ Secretary of the  
24 Department of Human Services, the Director of Arkansas Rehabilitation  
25 Services, and the Treasurer of State.

26  
27 SECTION 54. Arkansas Code § 20-3-105(a)(1) and (2), concerning the  
28 administration, authority, and powers of the Achieving a Better Life  
29 Experience Program Committee, are amended to read as follows:

30 (1) The ~~Director~~ Secretary of the Department of Human Services,  
31 or his or her designee;

32 (2) The Director of Arkansas Rehabilitation Services of the  
33 ~~Department of Career Education~~ Division of Workforce Development, or his or  
34 her designee; and

35  
36 SECTION 55. Arkansas Code § 20-8-602(a)(4), concerning creation and

1 members of the Alzheimer’s Advisory Council, is amended to read as follows:

2 (4) Nine (9) members as follows:

3 (A) The ~~Director~~ Secretary of the Department of Health or  
4 his or her designee;

5 (B) The ~~Director~~ Secretary of the Department of Human  
6 Services or his or her designee;

7 (C) The Director of the Division of Aging, Adult, and  
8 Behavioral Health Services of the Department of Human Services or his or her  
9 designee;

10 (D) The Director of the Arkansas Center for Health  
11 Improvement or his or her designee;

12 (E) The Director of the ~~Department~~ Division of Workforce  
13 Services or his or her designee; and

14 (F) Four (4) members appointed by the state chapter of the  
15 Alzheimer’s Association to represent Arkansas families that have been  
16 affected by Alzheimer’s disease.

17  
18 SECTION 56. Arkansas Code § 20-9-221(b)(1) and (2), concerning  
19 confidential information received by the Department of Health, are amended to  
20 read as follows:

21 (b)(1) However, in the case of a specific written request by the  
22 deputy director of the appropriate division as determined by the ~~Director~~  
23 Secretary of the Department of Human Services for information concerning a  
24 certain nursing home, information obtained during recent inspections of the  
25 home may be supplied in writing to the deputy director.

26 (2) This exception applies only to homes providing care for  
27 recipients of public welfare and is not to be construed as permitting the  
28 exchange of such information on all homes in the state but is specifically  
29 limited to those for which the deputy director of the appropriate division as  
30 determined by the ~~director~~ secretary has specific complaints.

31  
32 SECTION 57. Arkansas Code § 20-10-101(6), concerning the definition of  
33 "director" under the laws governing long term care facilities and services,  
34 is repealed.

35 ~~(6) “Director” means the Director of the Department of Human~~  
36 ~~Services;~~

1  
2 SECTION 58. Arkansas Code § 20-10-101(7), concerning the definition of  
3 "division" under the laws governing long term care facilities and services,  
4 is amended to read as follows:

5 (7) "Division" means the appropriate division as determined by  
6 the ~~Director~~ Secretary of the Department of Human Services;  
7

8 SECTION 59. Arkansas Code § 20-10-202 is amended to read as follows:  
9 20-10-202. Creation.

10 There is created an Office of Long-Term Care within the appropriate  
11 division as determined by the ~~Director~~ Secretary of the Department of Human  
12 Services. The head of the office shall be appointed by the ~~director~~ Secretary  
13 of the Department of Human Services.  
14

15 SECTION 60. Arkansas Code § 20-10-204(b)(2)(D), concerning notice of  
16 violation for a long-term care facility, is amended to read as follows:

17 (D) Amount of civil penalty or other administrative  
18 remedy, if any, imposed by the ~~Director~~ Secretary of the Department of Human  
19 Services; and  
20

21 SECTION 61. Arkansas Code § 20-10-207(a), concerning the notification  
22 to media of violations by a long-term care facility, is amended to read as  
23 follows:

24 (a) When the Office of Long-Term Care's appropriate division, as  
25 determined by the ~~Director~~ Secretary of the Department of Human Services,  
26 finds, upon inspection and investigation, that any nursing home or  
27 residential care facility has committed two (2) violations constituting Class  
28 A or Class B violations as ~~defined~~ set out in § 20-10-205 during any twelve-  
29 month period, the office shall notify the various news media within the  
30 county wherein the nursing home or residential care facility is located and  
31 shall advise the media that a complete record of the inspection and  
32 investigation will be available for public inspection at the office.  
33

34 SECTION 62. Arkansas Code § 20-10-208(a) and (b), concerning hearings  
35 of the Department of Human Services, are amended to read as follows:

36 (a)(1) A licensee may contest an assessment of a civil penalty or any

1 administrative remedy imposed by the Office of Long-Term Care by sending a  
2 written request for a hearing to the ~~Director~~ Secretary of the Department of  
3 Human Services.

4 (2) Requests for hearings shall be received by the ~~Director~~  
5 Secretary of the Department of Human Services within sixty (60) days after  
6 receipt by the licensee of the notice of violation and the assessment of any  
7 civil penalty or any administrative remedy imposed by the office.

8 (b)(1) The ~~Director~~ Secretary of the Department of Human Services  
9 shall assign the appeal to a fair and impartial hearing officer who shall not  
10 be a full-time employee of the Department of Human Services.

11 (2) The hearing officer shall preside over the hearing and make  
12 findings of fact and conclusions of law in the form of a recommendation to  
13 the ~~Director~~ Secretary of the Department of Human Services.

14 (3) The ~~Director~~ Secretary of the Department of Human Services  
15 shall review any recommendation and make the final decision. He or she:

16 (A) May approve the recommendation; or

17 (B) May for good cause:

18 (i) Modify the recommendation in whole or in part;

19 or

20 (ii)(a) Remand the recommendation for further  
21 proceedings as directed by him or her.

22 (b) If the recommendation is remanded, the  
23 hearing officer shall conduct further proceedings as directed by the ~~Director~~  
24 Secretary of the Department of Human Services and shall submit an amended  
25 recommendation to the ~~Director~~ Secretary of the Department of Human Services.

26 (4) If the ~~Director~~ Secretary of the Department of Human  
27 Services modifies a recommendation, in whole or in part, or if the ~~Director~~  
28 Secretary of the Department of Human Services remands the decision, he or she  
29 shall state in writing at the time of the remand or modification all grounds  
30 for the remand or modification, including statutory, regulatory, factual, or  
31 other grounds.

32 (5) The modification or approval of a recommendation by the  
33 ~~Director~~ Secretary of the Department of Human Services shall be the final  
34 agency action as provided by the Arkansas Administrative Procedure Act, § 25-  
35 15-201 et seq.

36

1 SECTION 63. Arkansas Code § 20-10-208(c)(3), concerning hearings of  
2 the Department of Human Services, are amended to read as follows:

3 (3) Unless the ~~Director~~ Secretary of the Department of Human  
4 Services acts on the recommendation of the hearing officer within sixty (60)  
5 days of receipt of the recommendation, the recommendation of the hearing  
6 officer shall be final.

7  
8 SECTION 64. Arkansas Code § 20-10-208(d), concerning hearings of the  
9 Department of Human Services, is amended to read as follows:

10 (d) Except to the extent that it is inconsistent with federal law or  
11 regulation, a written request for a hearing shall stay until denied by the  
12 ~~Director~~ Secretary of the Department of Human Services any enforcement action  
13 imposed by the office pending the hearing and the final decision of the  
14 ~~Director~~ Secretary of the Department of Human Services.

15  
16 SECTION 65. Arkansas Code § 20-10-209 is amended to read as follows:  
17 20-10-209. Disposition of funds.

18 (a)(1) There is established on the books of the Treasurer of State,  
19 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to  
20 be known as the "Long-Term Care Trust Fund".

21 (2) The fund shall consist of all moneys and interest received  
22 from the imposition of civil penalties levied by the state on long-term care  
23 facilities found to be out of compliance with the requirements of federal or  
24 state law or regulations, there to be administered by the ~~Director~~ Secretary  
25 of the Department of Human Services solely for the protection of the health  
26 or property of residents of long-term care facilities, including, but not  
27 limited to, the payment for the costs of relocation of residents to other  
28 facilities, maintenance and operation of a facility pending correction of  
29 deficiencies or closure, and reimbursement of residents for personal funds  
30 lost.

31 (b) Funds from the Long-Term Care Trust Fund may also be administered  
32 by the ~~Director~~ Secretary of the Department of Human Services for programs or  
33 uses that, in the determination of the Director of the Office of Long-Term  
34 Care, enhance the quality of life for long-term care facility residents  
35 through the adoption of principles and building designs established by the  
36 Eden Alternative, Inc. or Green House Project programs or other means.

1  
2 SECTION 66. Arkansas Code § 20-10-905(d), concerning a petition for  
3 receivership, is amended to read as follows:

4 (d) The complaint and notice of hearing shall be served on the owner  
5 and administrator or licensee of the facility. In cases when the department  
6 is not the plaintiff in the action, a copy of the complaint and notice shall  
7 be forwarded by mail to the ~~Director~~ Secretary of the Department of Human  
8 Services by the plaintiff.

9  
10 SECTION 67. Arkansas Code § 20-10-916(b), concerning the Long-Term  
11 Care Facility Receivership Fund Account, is amended to read as follows:

12 (b) The fund account established in this section shall be administered  
13 and disbursed under the direction of the ~~Director~~ Secretary of the Department  
14 of Human Services for the purpose of paying the expenses of receivers  
15 appointed under this subchapter.

16  
17 SECTION 68. Arkansas Code § 20-10-1004(c)(1), concerning prohibiting  
18 new admissions to long-term care facilities, hearings, and appeals, is  
19 amended to read as follows:

20 (c)(1) The facility may request an immediate hearing by written  
21 request to the ~~Director~~ Secretary of the Department of Human Services.

22  
23 SECTION 69. Arkansas Code § 20-10-1409(b)(1), concerning the staffing  
24 standards of the Office of Long-Term Care, is amended to read as follows:

25 (b)(1) If the ~~Director~~ Secretary of the Department of Human Services  
26 determines that the reimbursement methodology or available funding is  
27 insufficient or unable to pay for the minimum staffing standards under § 20-  
28 10-1403, the office, by regulation, may modify the requirements of § 20-10-  
29 1403 to ensure minimum staffing funds.

30  
31 SECTION 70. Arkansas Code § 20-10-1409(c)(1)(A), concerning the  
32 staffing standards of the Office of Long-Term Care, is amended to read as  
33 follows:

34 (c)(1)(A) If the Director of the Office of Long-Term Care determines  
35 that minimum staffing standards should be increased pursuant to subdivision  
36 (b)(2) of this section, the Director of the Office of Long-Term Care shall

1 certify the determination and any proposed regulatory increases to minimum  
2 staffing standards to the Director of the Division of Medical Services of the  
3 Department of Human Services, who shall notify the ~~Director~~ Secretary of the  
4 Department of Human Services and the Legislative Council of the determination  
5 and whether sufficient appropriated funds exist to fund the costs to be  
6 incurred by the proposed changes to the minimum staffing standards.

7  
8 SECTION 71. Arkansas Code § 20-10-2106 is amended to read as follows:  
9 20-10-2106. Rules.

10 The ~~Director~~ Secretary of the Department of Human Services shall adopt  
11 rules necessary to implement and administer this subchapter, including  
12 without limitation:

13 (1) Procedures for a long-term care facility to notify the  
14 Office of Long-Term Care of admissions; and

15 (2)(A) Procedures by which a person in a long-term care facility  
16 may decline options counseling for long-term care.

17 (B)(i) These procedures shall include a form promulgated  
18 by the Department of Human Services for use by a long-term care facility.

19 (ii) The form shall be limited to one (1) page and  
20 shall:

21 (a) Be orally read to the resident or, if  
22 applicable, the resident's representative by long-term care facility staff  
23 except as provided in this subdivision (2)(B)(ii);

24 (b) List the date;

25 (c) State the name of the resident or, if  
26 applicable, the resident's representative;

27 (d) Contain checkboxes indicating that:

28 (1) The office was notified of the  
29 admission;

30 (2) The form was not read orally to the  
31 resident or resident's representative because the resident lacks decisional  
32 capacity and does not have a representative; and

33 (3) The resident or the resident's  
34 representative declined the options counseling for long-term care;

35 (e) Contain a statement and an acknowledgment  
36 that options counseling for long-term care is an optional program and may be



1 declined by execution of the form;

2 (f) Be signed by the resident or, if  
3 applicable, the resident's representative; and

4 (g) Be retained by the long-term care facility  
5 in the resident's admission file for eighteen (18) months or until the next  
6 standard survey, whichever is longer.

7  
8 SECTION 72. Arkansas Code § 20-14-203(a), concerning the ex officio  
9 members of the Governor's Commission on People with Disabilities, is amended  
10 to read as follows:

11 (a) The ~~Director~~ Secretary of the Department of Human Services, the  
12 deputy director of the appropriate division as determined by ~~Director~~  
13 Secretary of the Department of Human Services, and the Director of the  
14 Department of Workforce Services or any director, commissioner, or  
15 administrator of successors' agencies shall serve as ex officio members of  
16 the Governor's Commission on People with Disabilities.

17  
18 SECTION 73. Arkansas Code § 20-14-209 is amended to read as follows:  
19 20-14-209. Administrative support.

20 (a) The appropriate division as determined by the ~~Director~~ Secretary  
21 of the Department of Human Services or any other agency or division as the  
22 Governor shall designate shall provide administrative support to the  
23 Governor's Commission on People with Disabilities.

24 (b) A representative of the appropriate division as determined by the  
25 director or any other agency or division as the Governor shall designate  
26 shall be appointed as executive director to effect the coordination between  
27 the division and the Chair of the Governor's Commission on People with  
28 Disabilities in the arrangement of the support.

29  
30 SECTION 74. Arkansas Code § 20-22-404 is amended to read as follows:  
31 20-22-404. Rules and regulations adopted by Office of Long-Term Care.  
32 The Office of Long-Term Care of the appropriate division as determined  
33 by the ~~Director~~ Secretary of the Department of Human Services may adopt  
34 appropriate rules and regulations to carry out the purpose and intent of this  
35 subchapter.

36

1 SECTION 75. Arkansas Code § 20-46-105(d), concerning reports on  
2 emotionally disturbed youth by the Department of Human Services, is amended  
3 to read as follows:

4 (d) The deputy director of the appropriate division of the department  
5 as determined by the ~~Director~~ Secretary of the Department of Human Services  
6 shall certify by his or her signature that the information contained in these  
7 reports is correct to the best of his or her knowledge.

8  
9 SECTION 76. Arkansas Code § 20-46-301(a) and (b), concerning the  
10 powers and duties of the Division of Aging, Adult, and Behavioral Health  
11 Services of the Department of Human Services, are amended to read as follows:

12 (a) The Department of Human Services shall have the authority and  
13 power to create and maintain the Division of Aging, Adult, and Behavioral  
14 Health Services of the Department of Human Services and to provide services  
15 for community mental health clinics and centers, which shall be administered  
16 through such divisions, offices, sections, or units of the Department Human  
17 Services as may be determined by the ~~Director~~ Secretary of the Department of  
18 Human Services.

19 (b) The Department of Human Services shall have the authority to  
20 establish or assist in the establishment and direction of those mental health  
21 clinics and centers in local and regional areas of the state which shall be  
22 operated under such divisions, offices, sections, or units of the Department  
23 Human Services as may be determined by the ~~director~~ secretary.

24  
25 SECTION 77. Arkansas Code § 20-46-301(e)(2), concerning the powers and  
26 duties of the Division of Aging, Adult, and Behavioral Health Services of the  
27 Department of Human Services, are amended to read as follows:

28 (2) The ~~director~~ secretary shall have the authority to negotiate  
29 an employee leasing arrangement with the private nonprofit community mental  
30 health center as an ongoing contract to perform mental health services for  
31 the center. The arrangement shall provide, at a minimum:

32 (A) For reimbursement for all leased Division of Aging,  
33 Adult, and Behavioral Health Services of the Department of Human Services  
34 employee financial obligations with respect to wages, employment taxes, and  
35 employee benefits of each employee providing services for the center and for  
36 reimbursement of administrative costs associated with the leased employees;

1 (B) That all leased employees are covered by workers'  
2 compensation insurance provided in conformance with laws of the state and  
3 which may be provided by either the Department of Human Services or the  
4 center;

5 (C) That all leased employees shall be limited to  
6 providing services to clients or in support of clients which are consistent  
7 with the goals and objectives of the Division of Aging, Adult, and Behavioral  
8 Health Services of the Department of Human Services and the Department of  
9 Human Services;

10 (D) That the Division of Aging, Adult, and Behavioral  
11 Health Services of the Department of Human Services and the Department of  
12 Human Services shall not be vicariously liable for the liabilities of the  
13 center, whether contractual or otherwise;

14 (E) That the center shall provide liability insurance for  
15 the employees and indemnify the state for any actions of the employees; and

16 (F) That the leasing arrangement shall not be effective  
17 for a period of time to exceed each state fiscal biennium and that payment  
18 and performance obligations of the arrangement are subject to the  
19 availability and appropriation of funds for the employees' salaries and other  
20 benefits.

21  
22 SECTION 78. The introductory language of Arkansas Code § 20-46-303,  
23 concerning the standards for community mental health clinics, is amended to  
24 read as follows:

25 In approving or rejecting community mental health clinics for the  
26 purpose of mental health services, the ~~Director~~ Secretary of the Department  
27 of Human Services shall consider the following factors:

28  
29 SECTION 79. The introductory language of Arkansas Code § 20-46-309,  
30 concerning the composition and qualifications of staff and boards at  
31 community mental health centers, is amended to read as follows:

32 The ~~Director~~ Secretary of the Department of Human Services shall  
33 require the following as to the composition and professional qualifications  
34 of the clinic or center staff and control and direction of the clinic or  
35 center:

36

1 SECTION 80. Arkansas Code § 20-46-310 is amended to read as follows:  
 2 20-46-310. Duty to provide screenings and evaluation studies.

3 Mental health centers in this state, whether local or regional, which  
 4 have been approved by the ~~Director~~ Secretary of the Department of Human  
 5 Services shall provide, upon request of the courts of record in this state,  
 6 screening and evaluation studies of such persons as shall be referred to the  
 7 mental health center or clinic by the court.

8  
 9 SECTION 81. Arkansas Code § 20-46-601(b), concerning the tracking and  
 10 treatment of persons suffering from mental illness and substance abuse, is  
 11 amended to read as follows:

12 (b) For purposes of this section, "client" means a person diagnosed to  
 13 be addicted to drugs or alcohol who has been committed to the custody of the  
 14 ~~Director~~ Secretary of the Department of Human Services pursuant to § 5-2-314  
 15 as a result of acquittal, on the ground of mental disease or defect, of an  
 16 offense involving bodily injury to another person or serious risk of such  
 17 injury.

18  
 19 SECTION 82. Arkansas Code § 20-46-702(a)(3), concerning the definition  
 20 of "director" under the laws governing the Department of Human Services, is  
 21 repealed.

22 ~~(3) "Director" means the Director of the Department of Human~~  
 23 ~~Services or his or her designee;~~

24  
 25 SECTION 83. Arkansas Code § 20-46-703(d), concerning surveys of  
 26 program providers for the Department of Human Services, is amended to read as  
 27 follows:

28 (d) The ~~Director~~ Secretary of the Department of Human Services shall  
 29 ensure that the department complies with the Arkansas Administrative  
 30 Procedure Act, § 25-15-201 et seq., and with § 20-77-107 in regard to all  
 31 surveys of program providers.

32  
 33 SECTION 84. Arkansas Code § 20-47-505(a)(2), concerning the Child and  
 34 Adolescent Service System Program Coordinating Council, is amended to read as  
 35 follows:

36 (2) The council shall include the following persons to be

1 selected and appointed by the Commissioner of Education and the ~~Director~~  
 2 Secretary of the Department of Human Services:

3 (A) At least three (3) parents, parent surrogates, or  
 4 family members of a child or children with emotional disturbance;

5 (B) A member of an ethnic minority;

6 (C) A child advocate;

7 (D) Child and Adolescent Service System Program  
 8 coordinators from each of the certified community mental health centers;

9 (E)(i) One (1) or more representatives from specific  
 10 divisions or agencies in the Department of Human Services and the Department  
 11 of Education.

12 (ii) Each representative shall have official duties  
 13 related to the delivery of behavioral health services for children and  
 14 adolescents with emotional disturbances.

15 (iii) Specific designations of membership of the  
 16 council shall be determined through interdepartmental and intradepartmental  
 17 agreements that will be renewed on an annual basis; and

18 (F)(i) At least seven (7) representatives from private or  
 19 public agencies or organizations that are stakeholders in behavioral health  
 20 services for children and adolescents with emotional disturbances.

21 (ii) The commissioner and the ~~director~~ secretary  
 22 shall jointly appoint an appropriate number of stakeholders.

23  
 24 SECTION 85. Arkansas Code § 20-47-505(b)(1), concerning the Child and  
 25 Adolescent Service System Program Coordinating Council, is amended to read as  
 26 follows:

27 (1) Advise and report to the commissioner and the ~~director~~  
 28 secretary on matters of policy and programs related to children with  
 29 emotional disturbances and their families;

30  
 31 SECTION 86. Arkansas Code § 20-47-505(b)(6) and (7), concerning the  
 32 Child and Adolescent Service System Program Coordinating Council, are amended  
 33 to read as follows:

34 (6) Submit a statewide plan and budget recommendations to the  
 35 commissioner and the ~~director~~ secretary on or before March 15 of each even-  
 36 numbered year thereafter preceding the legislative session;

1           (7) Develop and recommend special projects to the commissioner  
2 and the ~~director~~ secretary;

3  
4           SECTION 87. Arkansas Code § 20-47-505(b)(10), concerning the Child and  
5 Adolescent Service System Program Coordinating Council, is amended to read as  
6 follows:

7           (10) Make recommendations for corrective action plans to the  
8 commissioner and the ~~director~~ secretary in the event that a regional program  
9 planning team does not produce a timely regional plan that meets a plan of  
10 care or fails to implement the approved regional plan.

11  
12           SECTION 88. Arkansas Code § 20-47-507(d), concerning staff for the  
13 Child and Adolescent Service System Program Coordinating Council, is amended  
14 to read as follows:

15           (d) The division's council staff shall provide an annual report  
16 summarizing program regional and coordinating council activities, strategic  
17 plans, and outcomes to the ~~Director~~ Secretary of the Department of Human  
18 Services and the Commissioner of Education each year on or before October 15.

19  
20           SECTION 89. Arkansas Code § 20-47-510(d)(1)(A), concerning  
21 coordination, oversight, and annual reports regarding the Comprehensive  
22 Children's Behavioral Health System of Care Plan, is amended to read as  
23 follows:

24           (A) The Commissioner of Education and the ~~Director~~  
25 Secretary of the Department of Human Services; and

26  
27           SECTION 90. Arkansas Code § 20-47-510(e)(1)(A), concerning  
28 coordination, oversight, and annual reports regarding the Comprehensive  
29 Children's Behavioral Health System of Care Plan, is amended to read as  
30 follows:

31           (A) The commissioner, the Director of the Department of  
32 Health, and the ~~Director~~ Secretary of the Department of Human Services; and

33  
34           SECTION 91. Arkansas Code § 20-48-202(5), concerning the definition of  
35 "director" under the Arkansas Intellectual Disabilities Act, is repealed.

36           ~~(5) "Director" means the Director of the Department of Human~~

1 ~~Services;~~

2  
 3 SECTION 92. Arkansas Code § 20-48-202(6), concerning the definition of  
 4 "division" under the Arkansas Intellectual Disabilities Act, is amended to  
 5 read as follows:

6 (6) "Division" means the Division of Developmental Disabilities  
 7 Services of the Department of Human Services or the appropriate division as  
 8 determined by the ~~Director~~ Secretary of the Department of Human Services;

9  
 10 SECTION 93. Arkansas Code § 20-48-210 is amended to read as follows:  
 11 Services.

12 20-48-210. Deputy Director of the Division of Developmental  
 13 Disabilities Services.

14 (a) There is created the office of the Deputy Director of the Division  
 15 of Developmental Disabilities Services of the Department of Human Services.  
 16 The deputy director shall be appointed by ~~and shall serve at the pleasure of~~  
 17 the Board of Developmental Disabilities Services with the approval of the  
 18 Secretary of the Department of Human Services.

19 (b) The deputy director shall be a person of proven administrative  
 20 ability and professional qualifications, preferably holding a Ph.D. or  
 21 equivalent, but including at least a master's degree in psychology,  
 22 education, social service, or other field of study approved by the board and  
 23 shall have at least five (5) years' experience in intellectual disabilities  
 24 services.

25 (c) The deputy director shall be the ~~executive secretary of the board~~  
 26 Director of the Board of Development Disabilities Services and shall maintain  
 27 an official set of minutes of all board action.

28 (d) The deputy director shall be the executive officer of the Division  
 29 of Developmental Disabilities Services and shall operate and manage the  
 30 division, subject to the control of the board and the Secretary of the  
 31 Department of Human Services.

32 (e) The board may delegate to the deputy director any powers of the  
 33 board upon such terms and for such duration as the board shall specify.

34  
 35 SECTION 94. Arkansas Code § 20-64-602(b)(4), concerning the powers and  
 36 duties of the Division of Aging, Adult, and Behavioral Health Services of the

1 Department of Human Services, is amended to read as follows:

2 (4) Serve in a liaison capacity between the state and local  
3 communities and the United States Government with respect to alcohol abuse  
4 and drug abuse programs and, subject to the approval of the ~~Director~~  
5 Secretary of the Department of Human Services, enter into agreements with and  
6 make commitments on behalf of the State of Arkansas to meet requirements for  
7 obtaining federal assistance or grants for partially financing alcohol abuse  
8 and drug abuse programs in the state;

9  
10 SECTION 95. Arkansas Code § 20-64-602(b)(7), concerning the powers and  
11 duties of the Division of Aging, Adult, and Behavioral Health Services of the  
12 Department of Human Services, is amended to read as follows:

13 (7) Review, on a continuing basis, existing and proposed state  
14 statutes relating to alcohol abuse and drug abuse education, prevention,  
15 intervention, treatment rehabilitation, and training and make appropriate  
16 recommendations for legislation to the ~~director~~ secretary and the General  
17 Assembly;

18  
19 SECTION 96. Arkansas Code § 20-64-602(b)(9), concerning the powers and  
20 duties of the Division of Aging, Adult, and Behavioral Health Services of the  
21 Department of Human Services, is amended to read as follows:

22 (9) Review those budget items proposed by other state agencies which  
23 are intended for alcohol or drug abuse prevention, intervention, treatment,  
24 education, rehabilitation, and training services and make recommendations to  
25 the ~~director~~ secretary;

26  
27 SECTION 97. Arkansas Code § 20-64-602(b)(15), concerning the powers  
28 and duties of the Division of Aging, Adult, and Behavioral Health Services of  
29 the Department of Human Services, is amended to read as follows:

30 (15) Prepare an annual report to coincide with appropriate federal  
31 reports to be submitted to the advisory council, the ~~director~~ secretary, and  
32 the Governor describing activities of the division and the accomplishments  
33 and effectiveness of its programs and also prepare special reports as deemed  
34 necessary for the advisory council to aid in the fulfillment of its advisory  
35 responsibilities;

36



1 SECTION 98. Arkansas Code § 20-64-602(b)(19), concerning the powers  
2 and duties of the Division of Aging, Adult, and Behavioral Health Services of  
3 the Department of Human Services, is amended to read as follows:

4 (19) Develop and promulgate standards, rules, and regulations for  
5 accrediting, certifying, and licensing alcohol and drug abuse prevention,  
6 treatment, and rehabilitation programs and facilities within the state, under  
7 the supervision and direction of the ~~director~~ secretary, provided that the  
8 standards, rules, and regulations shall not supersede standards, rules, and  
9 regulations promulgated by other state agencies for programs or facilities  
10 whose primary mission is not alcohol and drug abuse prevention, treatment,  
11 and rehabilitation;

12  
13 SECTION 99. Arkansas Code § 20-64-603 is amended to read as follows:

14 20-64-603. ~~Director~~ Secretary of the Department of Human Services –  
15 Administration of state plans.

16 The ~~Director~~ Secretary of the Department of Human Services shall be the  
17 single state authority and shall have primary responsibility for  
18 administering the state plan on alcohol abuse and alcoholism and the state  
19 plan on drug abuse prevention.

20  
21 SECTION 100. Arkansas Code § 20-64-1001(a), concerning the Arkansas  
22 Drug Director, is amended to read as follows:

23 (a)(1) There is created within the Division of Aging, Adult, and  
24 Behavioral Health Services of the Department of Human Services ~~office of the~~  
25 ~~Governor~~ a position of Arkansas Drug Director, ~~who shall serve at the~~  
26 ~~pleasure of the Governor.~~

27 (2) ~~Effective at 12:01 a.m. on July 1, 2005, the position of~~  
28 ~~Arkansas Drug Director is transferred to the Division of Aging, Adult, and~~  
29 ~~Behavioral Health Services of the Department of Human Services~~ The Arkansas  
30 Drug Director shall be appointed by the Governor, and shall serve at the  
31 pleasure of the Governor.

32 (3) The Arkansas Drug Director shall report to the Secretary of  
33 the Department of Human Services.

34  
35 SECTION 101. Arkansas Code § 20-64-1002(b)(1), concerning the Arkansas  
36 Alcohol and Drug Abuse Coordinating Council, is amended to read as follows:

1 (1) Thirteen (13) members of the coordinating council shall be  
 2 administrative officers of the following agencies, or their appropriate  
 3 designees, confirmed by gubernatorial appointment:

4 (A) The Arkansas Drug Director, who shall serve as Chair  
 5 of the Arkansas Alcohol and Drug Abuse Coordinating Council;

6 (B) The Director of the Division of Aging, Adult, and  
 7 Behavioral Health Services of the Department of Human Services;

8 (C) The Director of the ~~Department~~ Division of Arkansas  
 9 State Police;

10 (D) The Commissioner of Education;

11 (E) The Director of the Arkansas Department of  
 12 Transportation;

13 (F) The Director of the ~~Department~~ Division of Correction;

14 (G) The ~~Director~~ Secretary of the Department of Finance  
 15 and Administration;

16 (H) The Adjutant General of the Arkansas National Guard;

17 (I) The Attorney General;

18 (J) The ~~Executive~~ Director of the State Crime Laboratory;

19 (K) The Director of the Office of Alcohol Testing of the  
 20 Department of Health;

21 (L) The Director of the Administrative Office of the  
 22 Courts; and

23 (M) The Director of the ~~Department~~ Division of Community  
 24 Correction; and

25  
 26 SECTION 102. Arkansas Code § 20-76-211 is amended to read as follows:

27 20-76-211. ~~Director's office~~ Secretary's Office of Department of Human  
 28 Services – Client Specific Emergency Services Revolving Fund Paying Account.

29 (a) The ~~Director's office~~ Secretary's Office the Department of Human  
 30 Services shall establish and maintain as a cash fund account the Client  
 31 Specific Emergency Services Revolving Fund Paying Account consisting of  
 32 federal grants, aids, cash donations, reimbursements, and state general  
 33 revenue, not to exceed a daily balance of ten thousand dollars (\$10,000), for  
 34 delivery of immediate care, short-term, or emergency services to eligible  
 35 clients.

36 (b) The account shall be established and maintained in accordance with

1 procedures established by the Chief Fiscal Officer of the State for cash  
2 funds and shall be administered under the direction of the ~~Director~~ Secretary  
3 of the Department of Human Services.  
4

5 SECTION 103. Arkansas Code § 20-76-422 is repealed  
6 ~~20-76-422. Aged, blind, and disabled — Conversion from state to~~  
7 ~~federal program.~~

8 ~~(a) The Director of the Department of Human Services is authorized to~~  
9 ~~enter into agreements with the United States Secretary of Health and Human~~  
10 ~~Services and other state agencies to effectuate an orderly and timely~~  
11 ~~conversion from state to federal programs of cash assistance for the aged,~~  
12 ~~blind, and disabled, as provided in Pub. L. No. 92-603, Title III, in such a~~  
13 ~~manner as would be expedient to both the United States Government and the~~  
14 ~~State of Arkansas.~~

15 ~~(b) The agreements may include the transfer of state funds to, and the~~  
16 ~~receipt of federal funds from, the secretary for the purposes of~~  
17 ~~supplementing the federal benefits to be paid to eligible persons, to~~  
18 ~~facilitate disability, blindness, and Medicaid eligibility determinations on~~  
19 ~~behalf of the state by the secretary, and to enable the state to perform~~  
20 ~~required administrative or program functions on behalf of the secretary under~~  
21 ~~which the secretary will advance federal funds for the payment of full-time~~  
22 ~~and part-time employees and their related supportive expenses as deemed~~  
23 ~~necessary by both the director and the secretary to carry out the conversion~~  
24 ~~plan.~~

25  
26 SECTION 104. Arkansas Code § 20-77-102(d), concerning the program for  
27 long-term care facility care, is amended to read as follows:

28 (d) The ~~Director~~ Secretary of the Department of Human Services, with  
29 the approval of the Governor and after obtaining the advice of the  
30 Legislative Council, may provide for an expanded comprehensive program of  
31 long-term care facility care for residents of this state if he or she deems  
32 the program advisable or appropriate in order to take advantage of expanded  
33 federal programs or participation therein, within the limitation of funds  
34 that may be available to the department therefor.  
35

36 SECTION 105. Arkansas Code § 20-77-107(b)-(d), concerning the rules

1 and regulations for the program for indigent medical care, are amended to  
2 read as follows:

3 (b) The ~~Director~~ Secretary of the Department of Human Services is  
4 further authorized to enter into separate agreements with the University of  
5 Arkansas for Medical Sciences and private institutions in order to provide  
6 maximum medical care for the indigent persons of this state.

7 (c) The ~~director~~ secretary may enter into agreements with private or  
8 public entities to assist in the enforcement of rules and regulations of an  
9 indigent medical program, including:

10 (1) Utilization review; and

11 (2) Professional review of providers participating in the  
12 program.

13 (d)(1) The ~~director~~ secretary shall ensure that any entity with whom  
14 the department contracts to assist in the enforcement of rules and  
15 regulations of an indigent medical program will fulfill its duties in  
16 accordance with state and federal law and regulations.

17 (2) The ~~director~~ secretary may terminate any contractor who  
18 excessively burdens the State of Arkansas with the defense of appeals of  
19 sanctions or citations of deficiencies that are resolved in favor of the  
20 program provider.

21

22 SECTION 106. Arkansas Code § 20-77-107(f), concerning the rules and  
23 regulations for the program for indigent medical care, is amended to read as  
24 follows:

25 (f) The ~~director~~ secretary shall ensure that the professional review  
26 of providers, except long-term care facilities and their reviewers,  
27 participating in the program comply with the following:

28 (1) The party conducting any professional reviews of providers  
29 participating in the program shall be knowledgeable in the specific areas of  
30 law and regulations being enforced;

31 (2)(A) Every citation or deficiency cited to a provider shall  
32 refer by source and number to the authority upon which the citation or  
33 deficiency is based.

34 (B) However, the requirement of subdivision (f)(2)(A) of  
35 this section does not limit the department and any entity with whom it  
36 contracts in the exercise and application of professional medical judgment in

1 determining when and under what circumstances care is medically necessary;

2 (3) The professional review process shall include an informal  
3 dispute resolution process to allow the provider to challenge the citation or  
4 deficiency cited or sanction to a person other than the person making the  
5 citation as defined by the ~~director~~ secretary;

6 (4) The ~~director~~ secretary shall establish a system to ensure  
7 standard and consistent application of sanctions and citation or deficiencies  
8 among surveyors in different areas of the state; and

9 (5) The ~~director~~ secretary shall establish a process for program  
10 providers to appeal a decision of a reviewer pursuant to the Arkansas  
11 Administrative Procedure Act, § 25-15-201 et seq.

12  
13 SECTION 107. Arkansas Code § 20-77-111(a), concerning data reports on  
14 the Arkansas Medicaid Program, is amended to read as follows:

15 (a) The ~~Director~~ Secretary of the Department of Human Services shall  
16 cause to be prepared a compilation of data on the Arkansas Medicaid Program.

17  
18 SECTION 108. Arkansas Code § 20-77-304(b)(1), concerning the notice of  
19 an action or claim, is amended to read as follows:

20 (b)(1) If the recipient, his or her guardian, personal representative,  
21 estate, or survivors bring an action against the third party who may be  
22 liable for injury, disease, or disability, then notice of institution of the  
23 legal proceedings and notice of settlement shall be given the ~~Director~~  
24 Secretary of the Department of Human Services.

25  
26 SECTION 109. Arkansas Code § 20-77-402 is amended to read as follows:

27 20-77-402. Continuation of program.

28 (a) The ~~Director~~ Secretary of the Department of Human Services and the  
29 deputy director of the appropriate division of the Department of Human  
30 Services are authorized to provide for continued coverage of prescription  
31 drugs under the Title XIX Medicaid Program for the State of Arkansas.

32 (b) The ~~director~~ secretary and deputy director are authorized to  
33 establish necessary program guidelines to control the provision of this  
34 service, provided that the guidelines are not in conflict with any federal or  
35 state law or regulation.

36

1 SECTION 110. Arkansas Code § 20-77-403(a) and (b), concerning fees  
2 paid to participating pharmacists, are amended to read as follows:

3 (a) The ~~Director~~ Secretary of the Department of Human Services and the  
4 deputy director shall pay each participating pharmacist for each prescription  
5 filled under this program the pharmacist's usual and customary charge to the  
6 general public for the drug.

7 (b) However, until existing federal regulations limiting reimbursement  
8 for a drug to the lower of the pharmacist's usual and customary charge, or  
9 cost of the drug plus a reasonable dispensing fee, are modified or declared  
10 invalid by a court, the ~~director~~ secretary and the deputy director shall pay  
11 for each prescription, the lower of:

12 (1) The pharmacist's usual and customary charge to the general  
13 public for the drug; or

14 (2) The pharmacist's cost of the drug plus a dispensing fee. The  
15 fee will be adjusted annually on July 1 of each year by the percentage change  
16 in the Consumer Price Index, except that on any July 1 immediately following  
17 a subsequent cost of dispensing survey conducted by the appropriate division  
18 of the Department of Human Services, the fee will be adjusted using the  
19 formula used by the ~~director~~ secretary and the deputy director to determine  
20 the July 1, 1980, fee or other such formula as may be developed subsequently  
21 by the ~~director~~ secretary and the deputy director with the approval of the  
22 Legislative Council.

23  
24 SECTION 111. Arkansas Code § 20-77-404 is amended to read as follows:

25 20-77-404. Approval from United States Department of Health and Human  
26 Services.

27 (a) The ~~Director~~ Secretary of the Department of Human Services and the  
28 deputy director are directed to seek approval by the United States Department  
29 of Health and Human Services of the provisions of this subchapter so as to  
30 qualify this program for maximum contributions from the United States  
31 Department of Health and Human Services under its regulations until those  
32 regulations are declared invalid or modified.

33 (b) If, and to the extent that, the United States Department of Health  
34 and Human Services hereafter makes any valid rule that any provision of this  
35 subchapter disqualifies this program for the maximum contribution, the  
36 ~~director~~ secretary and the deputy director are directed to comply with any

1 ruling to the extent necessary to qualify for the maximum contribution.

2  
3 SECTION 112. Arkansas Code § 20-77-710 is amended to read as follows:  
4 20-77-710. Annual report of cotrustees of Special Needs Trust  
5 Revolving Fund.

6 The cotrustees of the Special Needs Trust Revolving Fund shall prepare  
7 and transmit annually a report of their activities to the ~~Director~~ Secretary  
8 of the Department of Human Services. This report shall include the amount of  
9 benefits paid and a statistical summary of claims and benefits made and  
10 denied.

11  
12 SECTION 113. Arkansas Code § 20-77-902(7)(B)(iii)(b), concerning  
13 liability for certain acts within the State of Arkansas, is amended to read  
14 as follows:

15 (b) In the case of an entity that is a  
16 Medicaid provider as defined in § 20-77-901, the person discloses, in the  
17 form and manner as the ~~Director~~ Secretary of the Department of Human Services  
18 requires, to the entity and upon request to the ~~director~~ secretary the amount  
19 received from each vendor with respect to purchases made by or on behalf of  
20 the entity; or

21  
22 SECTION 114. Arkansas Code § 20-77-902(7)(B)(iv), concerning liability  
23 for certain acts within the State of Arkansas, is amended to read as follows:

24 (iv) Any payment practice specified by the ~~director~~  
25 secretary promulgated pursuant to applicable federal or state law;

26  
27 SECTION 115. Arkansas Code § 20-77-910 is amended to read as follows:  
28 20-77-910. Suspension of violators.

29 The ~~Director~~ Secretary of the Department of Human Services may suspend  
30 or revoke the provider agreement between the Department of Human Services and  
31 the person in the event that the person is found guilty of violating the  
32 terms of this subchapter.

33  
34 SECTION 116. Arkansas Code § 20-77-1302(b), concerning the legislative  
35 intent and purpose to combat and prevent healthcare provider fraud and abuse,  
36 is amended to read as follows:

1 (b) The General Assembly intends to provide the ~~Director~~ Secretary of  
2 the Department of Human Services with the ability, authority, and resources  
3 to pursue administrative sanctions and liquidated damages to protect the  
4 fiscal and programmatic integrity of the medical assistance programs from  
5 healthcare providers and other persons who engage in fraud,  
6 misrepresentation, abuse, or other ill practices, as set forth in this  
7 subchapter in order to obtain payments to which these healthcare providers or  
8 persons are not entitled.

9  
10 SECTION 117. Arkansas Code § 20-77-1303(3), concerning the definition  
11 of "Department Director" under Medical Assistance Programs Integrity Law, is  
12 repealed.

13 ~~(3) "Department director" or "director" means the Director of~~  
14 ~~the Department of Human Services;~~

15  
16 SECTION 118. Arkansas Code § 20-77-1304(a)(1), concerning claims  
17 reviews and administrative sanctions, is amended to read as follows:

18 (a)(1) Pursuant to rules and regulations promulgated in accordance  
19 with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the  
20 ~~Director~~ Secretary of the Department of Human Services shall establish a  
21 process to review a claim made by a healthcare provider to determine whether  
22 the claim should be or should have been paid as required by federal or state  
23 law or rule.

24  
25 SECTION 119. Arkansas Code § 20-77-1304(a)(3), concerning claims  
26 reviews and administrative sanctions, is amended to read as follows:

27 (3) The ~~director~~ secretary may withhold payment to a healthcare  
28 provider during claims review if necessary to protect the fiscal integrity of  
29 the medical assistance programs, provided that the healthcare provider has an  
30 opportunity for a hearing within sixty (60) days of the date payment is  
31 withheld.

32  
33 SECTION 120. Arkansas Code § 20-77-1304(b)(1), concerning claims  
34 reviews and administrative sanctions, is amended to read as follows:

35 (b)(1) The ~~director~~ secretary may establish various types of  
36 administrative sanctions pursuant to rules and regulations promulgated in



1 accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et  
2 seq., which may be imposed on a healthcare provider or other person who  
3 violates any provision of this subchapter or any other applicable federal or  
4 state law or rule related to the medical assistance programs.

5  
6 SECTION 121. Arkansas Code § 20-77-1304(c)(1), concerning claims  
7 reviews and administrative sanctions, is amended to read as follows:

8 (c)(1) The Department of Human Services shall conduct a hearing in  
9 compliance with the Arkansas Administrative Procedure Act, § 25-15-201 et  
10 seq., at the request of a person who wishes to contest an administrative  
11 sanction imposed on him or her by the ~~director~~ secretary.

12  
13 SECTION 122. Arkansas Code § 20-77-1305 is amended to read as follows:  
14 20-77-1305. Settlement.

15 The ~~Director~~ Secretary of the Department of Human Services may agree to  
16 settle an administrative sanction. The terms of the settlement shall be  
17 reduced to writing and signed by the parties to the agreement. The terms of  
18 the settlement shall be a public record. The settlement shall include the  
19 method and means of payment for recovery, including, but not limited to,  
20 adequate security for the full amount of the settlement.

21  
22 SECTION 123. Arkansas Code § 20-77-2510(d)(1), concerning the  
23 Department of Human Services' consultation with the Office of Medicaid  
24 Inspector General, is amended to read as follows:

25 (d)(1) ~~No later than December 1, 2013, the~~ The Director Secretary of  
26 the Department of Human Services in conjunction with the office shall prepare  
27 and submit an interim report to the Governor and the cochairs of the  
28 Legislative Council on the implementation of the initiatives under this  
29 section annually.

30  
31 SECTION 124. Arkansas Code § 20-78-215(a)(2), concerning federal  
32 funding for background checks for employees of child care facilities, is  
33 amended to read as follows:

34 (2) Specifically, regulations promulgated by the ~~Director~~  
35 Secretary of the Department of Human Services pursuant to this section may  
36 address federally mandated requirements for employment history and background

1 checks and nationwide criminal record checks, as may be necessary in  
2 accordance with the provisions of Pub. L. No. 92-544, for all operators,  
3 staff, or employees, or prospective operators, staff, or employees of the  
4 child care facilities or programs as defined in this section.

5  
6 SECTION 125. Arkansas Code § 20-78-215(b), concerning federal funding  
7 for background checks for employees of child care facilities, is amended to  
8 read as follows:

9 (b) In order to enable the State of Arkansas to fully participate and  
10 share in federal funds made available to the states through the Social  
11 Services Block Grant Act, or otherwise for the purposes of reducing and  
12 eliminating the incidence of child sexual abuse in child care facilities, as  
13 defined in § 20-78-202(2), the ~~director~~ secretary is authorized at his or her  
14 discretion to promulgate, pursuant to the Arkansas Administrative Procedure  
15 Act, § 25-15-201 et seq., rules and regulations implementing such federal  
16 requirements as may be placed upon the states to qualify for the funds.

17  
18 SECTION 126. Arkansas Code § 20-79-204(b), concerning the Deputy  
19 Director of the Arkansas Rehabilitation Services, is amended to read as  
20 follows:

21 (b) In carrying out his or her duties under this subchapter, the  
22 deputy director:

23 (1) Shall, with the approval of the ~~Director~~ Secretary of the  
24 Department of Human Services, prepare regulations for promulgation by the  
25 appropriate division of the department governing personnel standards, the  
26 protection of records and confidential information, the manner and form of  
27 filing applications, eligibility, and investigation and determination  
28 thereof, for rehabilitation services, procedures for fair hearings, and such  
29 other regulations as he or she finds necessary to carry out the purposes of  
30 this subchapter, including the order to be followed in selecting those to  
31 whom rehabilitation services are to be provided in situations where service  
32 cannot be provided to all who are eligible for service;

33 (2) Shall, with the approval of the ~~director~~ secretary,  
34 establish appropriate subordinate administrative units within the Arkansas  
35 Rehabilitation Services;

36 (3) Shall recommend to the ~~director~~ secretary for appointment

1 such personnel as he or she deems necessary for the efficient performance of  
 2 the functions of the Arkansas Rehabilitation Services;

3 (4) Shall prepare and submit to the ~~director~~ secretary and the  
 4 Governor annual reports of activities and expenditures and, prior to each  
 5 regular session of the General Assembly, estimates of sums required to carry  
 6 out this subchapter, as well as estimates of the amounts to be made available  
 7 for this purpose from all sources;

8 (5) Shall make certification for disbursement, in accordance  
 9 with regulations, of funds available for carrying out the purposes of this  
 10 subchapter; and

11 (6) May, with the approval of the ~~director~~ secretary, delegate  
 12 to any officer or employee of the Arkansas Rehabilitation Services such of  
 13 his or her powers and duties, except the making of regulations and the making  
 14 of recommendations for appointment of personnel, as he or she finds necessary  
 15 to carry out the purposes of this subchapter.

16  
 17 SECTION 127. Arkansas Code § 23-61-803(c)(5), concerning the creation  
 18 of the Arkansas Health Insurance Marketplace, is amended to read as follows:

19 (5) The ~~Director~~ Secretary of the Department of Human Services  
 20 or his or her designee as an ex officio nonvoting member.

21  
 22 SECTION 128. Arkansas Code § 25-10-101 is repealed.

23 ~~25-10-101. Creation Appointment of director.~~

24 ~~(a) There is created a Department of Human Services.~~

25 ~~(b)(1) The executive head of the department shall be the Director of~~  
 26 ~~the Department of Human Services.~~

27 ~~(2) The director shall be appointed by the Governor with the~~  
 28 ~~consent of the Senate and shall serve at the pleasure of the Governor.~~

29  
 30 SECTION 129. Arkansas Code § 25-10-102 is amended to read as follows:

31 25-10-102. Organization generally.

32 (a) The Department of Human Services is a cabinet-level department and  
 33 shall consist of and be operated under an integrated service system  
 34 consisting of the following programmatic divisions with responsibilities and  
 35 programs assigned to them as determined by the ~~Director~~ Secretary of the  
 36 Department of Human Services and those state entities transferred to the

1 Department of Human Services pursuant to a cabinet-level transfer under § 25-  
2 43-902:

3 (1) The Division of Aging, Adult, and Behavioral Health Services  
4 of the Department of Human Services;

5 (2) The Division of Medical Services;

6 (3) The Division of Developmental Disabilities Services;

7 (4) The Division of County Operations;

8 (5) The Division of Youth Services;

9 ~~(6) The Division of State Services for the Blind;~~

10 ~~(7) The Division of Children and Family Services;~~

11 ~~(8)(7) The Division of Child Care and Early Childhood Education;~~

12 and

13 ~~(9)(8) The Division of Provider Services and Quality Assurance.~~

14 (b) The ~~Director's~~ Secretary's Office of the Department of Human  
15 Services shall consist of:

16 (1) The ~~Director~~ Secretary of the Department of Human Services  
17 and his or her personal staff; and

18 (2) Shared business services operating across the divisions,  
19 offices, sections, and units of the department, including without limitation  
20 business operations and administrative functions determined necessary by the  
21 ~~director~~ secretary.

22 (c)(1)(A) Each division of the department shall be under the  
23 direction, control, and supervision of the ~~director~~ secretary.

24 (B) From time to time, the ~~director~~ secretary may transfer  
25 or assign existing duties or new programs or duties of the department to  
26 offices, sections, or units as he or she deems necessary for the efficient  
27 and necessary operation of the department.

28 (C) Before implementation of any reorganization, the  
29 ~~director~~ secretary shall obtain the advice of the House Committee on State  
30 Agencies and Governmental Affairs and the Senate Committee on State Agencies  
31 and Governmental Affairs.

32 (2)(A) However, the state institutions and the operation of  
33 state institutional programs under the jurisdiction of the Board of  
34 Developmental Disabilities Services and the Department of Human Services  
35 State Institutional System Board shall be under the control of their  
36 respective boards, as provided by law.

1                   (B) The ~~boards~~ Board of Developmental Disabilities  
 2 Services and the Department of Human Services State Institutional System  
 3 Board shall perform their respective functions and duties under the general  
 4 guidelines and standards promulgated by the ~~director~~ secretary.

5                   ~~(3) The Division of State Services for the Blind and the Board~~  
 6 ~~of the Division of State Services for the Blind shall continue to function~~  
 7 ~~within the department with the powers prescribed in § 25-10-201 et seq.~~

8  
 9                   SECTION 130. Arkansas Code § 25-10-104(b), concerning the Board of  
 10 Developmental Disabilities Services, is amended to read as follows:

11                   25-10-104. Developmental disabilities services – Board of  
 12 Developmental Disabilities Services.

13                   (b) The Board of Developmental Disabilities Services shall name the  
 14 administrative head or director of each of the respective institutions under  
 15 the board's jurisdiction with the concurrence of the ~~Director~~ Secretary of  
 16 the Department of Human Services.

17                   (c) Under a type 1 transfer of the Board of Developmental Disabilities  
 18 Services, and the institutions under its management and control, to the  
 19 Department of Human Services, the board shall have control of all budgeting,  
 20 purchasing, and related management functions in accordance with the  
 21 limitations and restrictions thereon provided in this act and by other laws  
 22 applicable thereto.

23                   (d)(1) It is the intent of this section that the administration of the  
 24 human development centers located at ~~Alexander~~, Arkadelphia, Booneville,  
 25 Conway, Jonesboro, and the Southeast Human Development Center at Warren, and  
 26 the various facilities and services thereof, shall be under the control of  
 27 the Board of Developmental Disabilities Services, as provided and intended by  
 28 ~~the~~ Arkansas Constitution, Amendment 33, but the board shall exercise its  
 29 control in accordance with the general guidelines, policies, and regulations  
 30 of the Department of Human Services governing divisions, offices, sections,  
 31 or units within the department with respect to budgets, personnel and  
 32 personnel policies, records, purchasing, bookkeeping, and other  
 33 administrative procedures prescribed by the ~~director~~ secretary.

34                   (2) It is the intent of this act that the Board of Developmental  
 35 Disabilities Services shall devote its time and resources to the operation  
 36 and management of the state-owned and controlled institutional programs of

1 the various state human development centers and that the establishment and  
 2 operation of community programs, workshops, and other services for  
 3 individuals with developmental disabilities or individuals with intellectual  
 4 disabilities in this state and other regional and community services  
 5 benefiting individuals with developmental disabilities or individuals with  
 6 intellectual disabilities shall be administered by the Department of Human  
 7 Services through the divisions, offices, sections, or units of the department  
 8 as determined by the ~~director of the department~~ secretary.

9 (e)(1) Nothing in this act shall be construed to prevent community  
 10 providers from making determinations consistent with guidelines and criteria  
 11 established by the state with respect to the appropriate placement of  
 12 eligible individuals with developmental disabilities or individuals with  
 13 intellectual disabilities in the least restrictive setting and the  
 14 development of individual program plans for instructional and case management  
 15 functions for individuals with developmental disabilities or individuals with  
 16 intellectual disabilities, in keeping with the requirements of regulations  
 17 promulgated pursuant to the Education for All Handicapped Children Act of  
 18 1975, Pub. L. No. 94-142, and § 504 of the Rehabilitation Act of 1973, Pub.  
 19 L. No. 93-112.

20 (2) The state reserves the authority to make final determination  
 21 of eligibility for services funded, in whole or in part, by state and federal  
 22 funds.

23  
 24 SECTION 131. Arkansas Code § 25-10-106 is amended to read as follows:  
 25 25-10-106. Division heads and other personnel.

26 (a)(1) The ~~Director~~ Secretary of the Department of Human Services,  
 27 with the advice and consent of the Governor, shall ~~appoint~~ employ the heads  
 28 of the various divisions of the Department of Human Services.

29 (2) The heads of the respective offices, sections, or units of  
 30 the department and all other personnel of the department shall be employed by  
 31 and serve at the pleasure of the ~~Director~~ Secretary of the Department of  
 32 Human Services.

33 (b)(1) However, the directors of the various institutions and programs  
 34 under the jurisdiction and control of the Department of Human Services State  
 35 Institutional System Board and the Board of Developmental Disabilities  
 36 Services within the Department of Human Services shall be named by the

1 ~~respective boards~~ Department of Human Services State Institutional System  
 2 Board and the Board of Developmental Disabilities Services, with the  
 3 concurrence of the ~~Director~~ Secretary of the Department of Human Services.

4 (2) All personnel employed in the institutions under the  
 5 management and control of ~~those boards~~ Department of Human Services State  
 6 Institutional System Board and the Board of Developmental Disabilities  
 7 Services shall be named by the directors thereof, under the departmental  
 8 rules and regulations related to personnel, and all personnel records of the  
 9 ~~boards of those~~ institutions of the Department of Human Services State  
 10 Institutional System Board and the Board of Developmental Disabilities  
 11 Services shall be in conformance with the general personnel policies  
 12 promulgated by the ~~Director~~ Secretary of the Department of Human Services for  
 13 other employees of the department.

14 (c) Nothing in this act shall be construed to reduce any rights which  
 15 an employee of the department or the various divisions, offices, sections, or  
 16 units thereof shall have under any civil service or merit system.

17  
 18 SECTION 132. Arkansas Code § 25-10-107(a), concerning reports of  
 19 divisions of the Department of Human Services, is amended to read as follows:

20 (a) All other divisions within the Department of Human Services shall  
 21 provide the ~~Director's~~ Secretary's Office of the Department of Human Services  
 22 with all policies regarding personnel administration, procurement of  
 23 commodities and services, accounting and budget control, licensure of  
 24 facilities, program planning and evaluation, contractual agreements with  
 25 consultants and providers of services, data processing systems management,  
 26 federal grant management, and any other information which may be requested by  
 27 the office.

28  
 29 SECTION 133. Arkansas Code § 25-10-108 is amended to read as follows:  
 30 25-10-108. Coordination of programs, procedures, etc., of department  
 31 and institutional boards.

32 In addition to the functions and duties provided by law to be performed  
 33 by the ~~Director~~ Secretary of the Department of Human Services, the ~~director~~  
 34 secretary shall direct those divisions, offices, sections, or units of the  
 35 Department of Human Services which he or she may designate to:

36 (1) Serve in a liaison capacity for the Department of Human

1 Services and the ~~director~~ secretary thereof with the boards and the directors  
2 of the various institutional facilities of the Department of Human Services  
3 State Institutional System Board and the Board of Developmental Disabilities  
4 Services within the Department of Human Services in efforts to coordinate  
5 services provided citizens of this state through those institutions with  
6 programs of the department for the benefit of neglected, dependent, and  
7 delinquent juveniles, individuals with mental illness, and individuals with  
8 intellectual disabilities or individuals with developmental disabilities of  
9 this state;

10 (2) Cooperate with the administrators of the various  
11 institutions under the direction and control of the Department of Human  
12 Services State Institutional System Board and the Board of Developmental  
13 Disabilities Services within the Department of Human Services in the  
14 administration of fiscal and budgetary policies applicable to all divisions  
15 and programs of the department as promulgated by the ~~director~~ secretary  
16 thereof and as directed by the Chief Fiscal Officer of the State;

17 (3) Offer assistance to the Department of Human Services State  
18 Institutional System Board and the Board of Developmental Disabilities  
19 Services within the Department of Human Services in developing biennial  
20 budgets and annual, quarterly, and monthly fiscal plans for the operation of  
21 those institutions and assist ~~those boards~~ the Department of Human Services  
22 State Institutional System Board and the Board of Developmental Disabilities  
23 Services in complying with the budget and fiscal policies promulgated by the  
24 ~~Director~~ Secretary of the Department of Human Services for the control and  
25 management of the funds made available to the department and its various  
26 offices, divisions, programs, and institutions. In connection therewith, the  
27 ~~boards~~ Department of Human Services State Institutional System Board and the  
28 Board of Developmental Disabilities Services shall be furnished records of  
29 all accounts, expenditures, funds, and fund balances available to each  
30 institution for its operation and support;

31 (4)(A) Coordinate, with each institution and its administrator  
32 under the control and direction of the Department of Human Services State  
33 Institutional System Board and the Board of Developmental Disabilities  
34 Services within the Department of Human Services, the purchasing policies and  
35 procedures of the department as promulgated by the ~~director~~ secretary thereof  
36 to assure that all those institutions comply with the uniform purchasing



1 practices and policies of the department and with the Arkansas Procurement  
2 Law, § 19-11-201 et seq., and the rules and regulations promulgated  
3 thereunder by the State Procurement Director.

4 (B) However, each of the various institutions under the  
5 control of the Department of Human Services State Institutional System Board  
6 and the Board of Developmental Disabilities Services within the Department of  
7 Human Services is authorized to have institutional purchasing officials who  
8 shall be authorized to make purchases in behalf of those institutions which  
9 are not within the exclusive jurisdiction of the State Procurement Director,  
10 but all such purchases shall be made in compliance with the uniform  
11 purchasing practices and policies promulgated by the ~~Director~~ Secretary of  
12 the Department of Human Services to be applicable to all divisions, offices,  
13 sections, or units of the department and shall be in conformance with the  
14 Arkansas Procurement Law, § 19-11-201 et seq., and regulations promulgated by  
15 the State Procurement Director; and

16 (5)(A) Coordinate the policies promulgated by the ~~Director~~  
17 Secretary of the Department of Human Services for the administration of  
18 personnel and personnel records within the various divisions, offices,  
19 sections, or units of the department with the Department of Human Services  
20 State Institutional System Board, the Board of Developmental Disabilities  
21 Services within the Department of Human Services, and the administrators of  
22 each of those institutions to assure that all employee records and personnel  
23 records conform to the personnel policies and records promulgated by the  
24 ~~Director~~ Secretary of the Department of Human Services and to the personnel  
25 policies and practices laws of the State of Arkansas.

26 (B) Nothing in this act shall prohibit or restrict the  
27 right of each of the institutional boards to employ, promote, discipline, or  
28 discharge any employee of any of those institutions so long as those actions  
29 are within the overall policies and procedures promulgated by the ~~Director~~  
30 Secretary of the Department of Human Services governing employee practices or  
31 actions.

32  
33 SECTION 134. Arkansas Code § 25-10-109 is amended to read as follows:

34 25-10-109. Institutional services generally – Development of admission  
35 policies, etc.

36 In addition to the functions and duties provided by law and this act to

1 be performed by the Board of Developmental Disabilities Services within the  
2 Department of Human Services and the Department of Human Services State  
3 Institutional System Board, it is the intent of this act that ~~those boards~~  
4 the Department of Human Services State Institutional System Board and the  
5 Board of Developmental Disabilities Services shall cooperate with the  
6 ~~Director~~ Secretary of the Department of Human Services, the divisions,  
7 offices, sections, or units of the Department of Human Services created by  
8 this act, and the programs funded by and operated by the department by  
9 developing admission policies, criteria, and services which will assure  
10 appropriate access to institutional services to meet the residential service  
11 needs of the citizens of this state.

12  
13 SECTION 135. Arkansas Code § 25-10-111 is amended to read as follows:

14 25-10-111. Budgeting generally.

15 (a)(1) The ~~Director~~ Secretary of the Department of Human Services  
16 shall obtain from each division, office, section, or unit of the Department  
17 of Human Services, including the institutions and institutional boards  
18 thereunder, all requests for biennial appropriations and all requests for  
19 special supplemental or construction appropriations.

20 (2) The ~~director~~ secretary shall review the requests and submit  
21 to the Chief Fiscal Officer of the State, the Governor, and the Legislative  
22 Council a coordinated budget for all divisions, offices, programs,  
23 institutions, and services of the department in whatever detail may be  
24 required by the state budgetary laws and by the budget forms and procedures  
25 promulgated by the Chief Fiscal Officer of the State and by the Legislative  
26 Council.

27 (b) It shall be the responsibility of the ~~director~~ secretary to  
28 operate all of its divisions, offices, and programs and to require that each  
29 of the institutional boards under the department administer their programs  
30 within those fiscal limitations and restraints which the ~~director~~ secretary  
31 deems necessary to assure that each program, service, and institution within  
32 the department receives an allocation of funds in accordance with the needs  
33 of the respective programs, services, and institutions and within the  
34 limitation of the moneys allocated and appropriated to the department for the  
35 operation of those programs, services, and institutions.

36 (c)(1) Although it is the intent of this act that the Department of

1 Human Services State Institutional System Board and the Board of  
 2 Developmental Disabilities Services shall each operate their institutional  
 3 programs and services within the Department of Human Services with autonomy  
 4 and independence as intended by the Arkansas Constitution, Amendment 33, the  
 5 General Assembly recognizes that reasonable fiscal policies are necessary to  
 6 assure that the various services of government are operated on a sound  
 7 financial basis and that deficit spending is not implemented.

8 (2) In furtherance of that policy, the General Assembly  
 9 determines that:

10 (A) The ~~director~~ secretary, with respect to the allocation  
 11 of funds and the exercise of fiscal restraint over all divisions, offices,  
 12 sections, units, programs, services, and institutions within the department,  
 13 shall have the ultimate authority to allocate and limit the amount of funds  
 14 to be expended in the operation of each division, office, program, service,  
 15 and institution within the department as he or she deems necessary to comply  
 16 with the fiscal laws of this state; and

17 (B) Nothing herein shall be construed to limit the  
 18 ultimate authority of the ~~director~~ secretary to develop and operate the  
 19 various programs in the state institutional system.

20 (3) However, all real property, including capital improvements  
 21 thereon, constituting the Department of Human Services State Institutional  
 22 System shall be under the control of the Department of Human Services State  
 23 Institutional System Board, and ~~that board~~ the Department of Human Services  
 24 State Institutional System Board and the Board of Developmental Disabilities  
 25 Services may convey by sale or lease any real property within the state  
 26 institutional system.

27  
 28 SECTION 136. Arkansas Code § 25-10-115(a), concerning county offices  
 29 of human services, is amended to read as follows:

30 (a) The ~~Director~~ Secretary of the Department of Human Services shall  
 31 establish a county office of human services in each county of this state. The  
 32 county offices shall provide the citizens of each county access to the  
 33 various services and programs provided by the Department of Human Services as  
 34 well as follow-up contact and services.

35  
 36 SECTION 137. Arkansas Code § 25-10-116(a) and (b), concerning the

1 advisory committees of the Department of Human Services, are amended to read  
2 as follows:

3 (a) From time to time, the ~~Director~~ Secretary of the Department of  
4 Human Services or the Governor may establish various advisory committees to  
5 assist the ~~director~~ secretary and the various divisions, offices, sections,  
6 or units within Department of Human Services in reviewing and offering advice  
7 on any of the programs, services, and duties of the department which the  
8 ~~director~~ secretary or the Governor may deem appropriate for the proper and  
9 efficient operation of the department and its respective programs, services,  
10 and duties.

11 (b) The advisory committees shall exist for the duration determined by  
12 the ~~director~~ secretary or the Governor.

13

14 SECTION 138. Arkansas Code § 25-10-122(b), concerning the creation of  
15 the Office of Minority Mental Health, is amended to read as follows:

16 (b) The head of the Office of Minority Mental Health shall be  
17 ~~appointed~~ employed by the ~~Director~~ Secretary of the Department of Human  
18 Services.

19

20 SECTION 139. Arkansas Code § 25-10-131 is amended to read as follows:

21 25-10-131. Match transfer.

22 The ~~Director~~ Secretary of the Department of Human Services, with the  
23 approval of the Chief Fiscal Officer of the State, is authorized to effect  
24 interagency fund transfers for the purpose of providing the state's matching  
25 share for payments made to that division or office, or its service providers,  
26 for services eligible for federal reimbursement under programs administered  
27 by other divisions or offices of the Department of Human Services.

28

29 SECTION 140. Arkansas Code § 25-10-133(a)(2), concerning transfer  
30 provisions, is amended to read as follows:

31 (2) Such reallocations or transfers shall be requested by the  
32 ~~Director~~ Secretary of the Department of Human Services.

33

34 SECTION 141. Arkansas Code § 25-10-136(c), concerning notice of  
35 private service contract by the Division of Youth Services, is amended to  
36 read as follows:

1 (c) In the event the General Assembly is in session, the ~~Director~~  
2 Secretary of the Department of Human Services shall provide the report to the  
3 House Committee on Aging, Children and Youth, Legislative and Military  
4 Affairs and the ~~chair~~ Chair of the Senate Interim Committee on Children and  
5 Youth.

6  
7 SECTION 142. Arkansas Code § 25-10-143(a)-(h), concerning advisory  
8 opinions by the Director of the Department of Human Services, is amended to  
9 read as follows:

10 (a) As used in this section, "advisory opinion" means a written  
11 statement by the ~~Director~~ Secretary of the Department of Human Services or  
12 his or her designee that explains the applicability to a specified set of  
13 facts of a pertinent statutory or regulatory provision relating to the  
14 provision of medical items or services under the medical assistance program  
15 administered by the Department of Human Services.

16 (b)(1) The ~~director~~ secretary may issue an advisory opinion at the  
17 request of a provider enrolled in the medical assistance program.

18 (2) Except as under subsection (h) of this section, the opinion  
19 is binding upon the ~~director~~ secretary with respect to that provider only.

20 (3) If the ~~director~~ secretary cannot respond to the request for  
21 an advisory opinion, the ~~director~~ secretary shall within thirty (30) days  
22 notify the provider that he or she will not be responding to the request for  
23 an opinion.

24 (c) A provider may request an advisory opinion concerning:

25 (1) A substantive question or a procedural matter;

26 (2) Questions arising before an audit or investigation  
27 concerning a provider's claim for payment or reimbursement; and

28 (3) A hypothetical or projected service plan.

29 (d) The ~~director~~ secretary shall not issue an advisory opinion if the  
30 request for an advisory opinion relates to a pending question raised by the  
31 provider in an ongoing or initiated investigation conducted by the Medicaid  
32 Inspector General, the Attorney General, a criminal investigation, or a civil  
33 or criminal proceeding, or if the provider has received a written notice from  
34 the ~~director~~ secretary or the Medicaid Inspector General that advises the  
35 provider of an imminent investigation, audit, suspended claim, or withholding  
36 of payment or reimbursement.

1 (e) This section does not supersede a federal regulation, law,  
2 requirement, or guidance.

3 (f) The ~~director~~ secretary shall adopt a rule establishing the time  
4 within which an advisory opinion shall be issued and the criteria for  
5 determining the eligibility of a request for departmental response.

6 (g) An advisory opinion represents an expression of the views of the  
7 ~~director~~ secretary as to the application of laws, rules, and other  
8 precedential material to the set of facts specified in the request for an  
9 advisory opinion.

10 (h)(1) A previously issued advisory opinion found by the ~~director~~  
11 secretary to be in error may be modified or revoked.

12 (2) If the ~~director~~ secretary modifies or revokes an advisory  
13 opinion, the modification or revocation operates prospectively.

14 (3) A recovery of medical assistance overpayments caused by a  
15 provider's reliance on an advisory opinion that is later modified or revoked  
16 is prohibited for the period up until the modification or revocation unless  
17 the provider is involved in fraud.

18 (4) The department promptly shall notify the provider of a  
19 modification or revocation of an advisory opinion.

20  
21 SECTION 143. Arkansas Code § 25-10-144(a)(1), concerning the creation  
22 of the Governor's Advisory Commission on National Service and Volunteerism,  
23 is amended to read as follows:

24 (1) Assist the community engagement program and staff of the  
25 ~~Director's~~ Secretary's Office of the Department of Human Services in setting  
26 goals, establishing priority activities, performing an advocacy role, and  
27 assisting in funding and resource development and publicity and recognition  
28 and awards programs; and

29  
30 SECTION 144. Arkansas Code § 25-10-402 is amended to read as follows:  
31 25-10-402. Purpose – Guidelines.

32 (a) The Department of Human Services State Institutional System Board  
33 is established to manage the Department of Human Services State Institutional  
34 System, as provided and intended by Arkansas Constitution, Amendment 33.

35 (b) The board shall perform its functions and duties in accordance  
36 with the general guidelines, policies, and regulations of the ~~department~~

1 Department of Human Services governing divisions, offices, sections, or units  
 2 within the department with respect to budgets, personnel and personnel  
 3 policies, records, purchasing, bookkeeping, and other administrative  
 4 procedures prescribed by the ~~Director~~ Secretary of the Department of Human  
 5 Services.

6  
 7 SECTION 145. Arkansas Code § 27-3-103(b)(3), concerning the membership  
 8 of the Arkansas Public Transportation Coordination Council, is amended to  
 9 read as follows:

10 (3) The remaining seven (7) members of the Arkansas Public  
 11 Transportation Coordination Council shall be:

12 (A) The ~~Director~~ Secretary of the Department of Human  
 13 Services or his or her designee;

14 (B) The Director of State Highways and Transportation or  
 15 his or her designee;

16 (C) The ~~Director~~ Secretary of the Department of Health or  
 17 his or her designee;

18 (D) The Chair of the Arkansas Economic Development Council  
 19 or his or her designee;

20 (E) The ~~Executive~~ Director of the Arkansas Economic  
 21 Development Commission or his or her designee;

22 (F) The Director of the University of Arkansas Cooperative  
 23 Extension Service or his or her designee; and

24 (G) The Chair of the Arkansas Workforce Development Board  
 25 or his or her successor or designee.

26  
 27 SECTION 146. EMERGENCY CLAUSE. It is found and determined by the  
 28 General Assembly of the State of Arkansas that this act revises the duties of  
 29 certain state entities; that this act establishes new departments of the  
 30 state; that these revisions impact the expenses and operations of state  
 31 government; and that the provisions of this act should become effective at  
 32 the beginning of the fiscal year to allow for implementation of the new  
 33 provisions at the beginning of the fiscal year. Therefore, an emergency is  
 34 declared to exist, and this act being necessary for the preservation of the  
 35 public peace, health, and safety shall become effective on July 1, 2019.