

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

A Bill

HOUSE BILL 1466

5 By: Representative Burch
6 By: Senator A. Clark
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING ISSUES REQUIRING
10 COURT APPROVAL UNDER THE ADULT MALTREATMENT CUSTODY
11 ACT; AND FOR OTHER PURPOSES.
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Subtitle

15 TO AMEND THE LAW CONCERNING ISSUES
16 REQUIRING COURT APPROVAL UNDER THE ADULT
17 MALTREATMENT CUSTODY ACT.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 9-20-108(f)(2)(B), concerning when a
23 hearing is unnecessary, is repealed.

24 ~~(B) A hearing is not required if counsel for both parties~~
25 ~~agree to waive the hearing or if an emergency exists for entry of an order.~~
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27 SECTION 2. Arkansas Code § 9-20-120(b)(9), concerning when the
28 Department of Human Services may consent to the performance of an amputation
29 on the body of a maltreated adult in the custody of the department without
30 the express approval of a court, is amended to read as follows:

31 (9) Consent to amputation of any part of the body unless a
32 procedure is necessary in a situation threatening the life of the maltreated
33 adult; or
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35 SECTION 3. Arkansas Code Title 9, Chapter 20, is amended to add an
36 additional section to read as follows:



1 9-20-124. Consideration of issues requiring court approval.

2 (a) The Department of Human Services shall:

3 (1) Request court approval in accordance with § 9-20-120(b) by
4 filing a written motion requesting court approval by the court;

5 (2)(A) Include an affidavit from the attending physician of the
6 respondent when the request for court approval relates to a decision
7 described in §§ 9-20-120(b)(1), (b)(2), (b)(3), (b)(9), and (b)(10).

8 (B) The affidavit shall:

9 (i) Describe the medical need or appropriateness for
10 the action requested;

11 (ii) Include information on the diagnosis,
12 prognosis, and treatment of the respondent;

13 (iii) Include information on any possible
14 consequences that may occur if treatment is withheld from the respondent;

15 (iv) Include information on whether treatment of the
16 respondent only prolongs the respondent's health; and

17 (v) Include the name and contact information of the
18 attending physician of the respondent; and

19 (3) Serve a copy of the motion and affidavit on the attorney for
20 the respondent within twenty-four (24) hours from the time of filing.

21 (b)(1) The court shall:

22 (A)(i) Conduct a hearing within three (3) business days
23 from the date on which a motion requesting court approval is filed.

24 (ii) A hearing is not required if counsel for both
25 of the parties agree to waive the hearing or if an emergency exists for entry
26 of an order.

27 (iii) The court shall allow a motion filed under
28 this section to be heard on transfer by another division of the circuit court
29 in order to ensure that a hearing conducted under subdivision (b)(1)(A)(i) of
30 this section is heard within the required time frame;

31 (B)(i) Enter a decision on the motion requesting court
32 approval within three (3) business days from the date of the hearing.

33 (ii) If a hearing is not conducted, the court shall
34 enter a decision on the motion requesting court approval within three (3)
35 business days from the date on which a motion requesting court approval is
36 filed;

1 (C) Grant a motion requesting court approval that does not
 2 include an affidavit from the attending physician of the respondent if the
 3 court finds by clear and convincing evidence that granting the request is in
 4 the best interest of the respondent;

5 (D) Grant a motion requesting court approval that includes
 6 an affidavit from the attending physician of the respondent if the court
 7 finds by clear and convincing evidence that:

8 (i) Granting the request is in the best interest of
 9 the respondent;

10 (ii) The attending physician of the respondent is
 11 requesting the medical action or inaction;

12 (iii) The evidence supports the need for the
 13 requested medical action or inaction; and

14 (iv) The respondent did not express an intent to
 15 oppose the medical action or inaction before losing the capacity to make his
 16 or her own medical decisions.

17 (2) The court may allow the attending physician of the
 18 respondent or another witness to testify by telephone or another medium as
 19 permitted by the Arkansas Rules of Evidence or the Arkansas Rules of Civil
 20 Procedure.

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