

1 State of Arkansas
2 92nd General Assembly
3 Fiscal Session, 2020

SR 5

4
5 By: Senators B. Ballinger, T. Garner, Flippo
6 By: Representatives Gonzales, Pilkington, Cloud, Sullivan, McCollum

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8 **SENATE RESOLUTION**

9 TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION
10 BILL TO PROHIBIT ELECTIVE PROCEDURES DURING THE
11 CORONAVIRUS DISEASE 2019, ALSO KNOWN AS COVID-19,
12 PUBLIC HEALTH EMERGENCY.

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15 **Subtitle**

16 TO AUTHORIZE THE INTRODUCTION OF A
17 NONAPPROPRIATION BILL TO PROHIBIT
18 ELECTIVE PROCEDURES DURING THE
19 CORONAVIRUS DISEASE 2019, ALSO KNOWN AS
20 COVID-19, PUBLIC HEALTH EMERGENCY.

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23 BE IT RESOLVED BY THE SENATE OF THE 92ND GENERAL ASSEMBLY OF THE STATE OF
24 ARKANSAS:

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26 THAT Senator Ballinger is authorized to introduce a bill which as
27 introduced will read substantially as follows:

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29 "For An Act To Be Entitled
30 AN ACT TO PROHIBIT ELECTIVE PROCEDURES DURING THE CORONAVIRUS DISEASE 2019,
31 ALSO KNOWN AS COVID-19, PUBLIC HEALTH EMERGENCY; TO DECLARE AN EMERGENCY; AND
32 FOR OTHER PURPOSES.

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34 Subtitle
35 TO PROHIBIT ELECTIVE PROCEDURES DURING THE CORONAVIRUS DISEASE 2019, ALSO
36 KNOWN AS COVID-19, PUBLIC HEALTH EMERGENCY; AND TO DECLARE AN EMERGENCY.



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2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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4 SECTION 1. DO NOT CODIFY. TEMPORARY LANGUAGE. Prohibition on
5 elective procedures – Definitions.

6 (a) As used in this section:

7 (1) "Healthcare facility" means a licensed office or institution
8 providing care or treatment of medical conditions and diseases, whether
9 physical, mental, or emotional, or of other medical, physiological, or
10 psychological conditions, including weight control clinics, facilities for
11 individuals with chronic illness, laboratories, and offices of surgeons,
12 chiropractors, physical therapists, physicians, dentists, and all specialists
13 within these professions; and

14 (2) "Healthcare professional" means a person who is licensed,
15 certified, or otherwise authorized by the laws of this state to administer
16 health care in the ordinary course of the practice of his or her profession.

17 (b)(1) Except as provided in subdivision (b)(2) of this section,
18 during the public health emergency related to coronavirus disease 2019, also
19 known as COVID-19, a healthcare professional or a healthcare facility shall
20 postpone a surgery or medical procedure that is not immediately medically
21 necessary to correct a serious medical condition of, or to preserve the life
22 of, a patient who without immediate performance of the surgery or medical
23 procedure would be at risk for serious adverse medical consequences or death,
24 as determined by the patient’s physician.

25 (2) This section does not apply to any surgery or medical
26 procedure that would not deplete the hospital capacity or the personal
27 protective equipment needed to cope with public health emergency related to
28 the coronavirus disease 2019, also known as COVID-19, if the surgery or
29 medical procedure is performed in accordance with the commonly accepted
30 standard of clinical practice.

31 (c)(1) If a healthcare professional or healthcare facility violates
32 this section, then the healthcare professional or healthcare facility shall
33 be subject to a fine of not less than one hundred dollars (\$100) nor more
34 than five hundred dollars (\$500) or to imprisonment not exceeding one (1)
35 month, or both.

36 (2) Each occurrence of an elective procedure in violation of

1 this section shall constitute a separate offense.

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3 SECTION 2. DO NOT CODIFY. TEMPORARY LANGUAGE AND SUSPENSION OF
4 CURRENT LAW.

5 (a) This act is cumulative of existing laws and does not repeal any
6 law in conflict with this act.

7 (b) The provisions of this act are temporary and expire when the
8 Governor or the Secretary of the Department of Health declares that:

9 (1) The public health emergency related to coronavirus disease
10 2019, also known as COVID-19, is ended; or

11 (2) The provisions of this act are no longer needed to cope with
12 the public health emergency related to coronavirus disease 2019, also known
13 as COVID-19.

14 (c) On and after the declaration that the public health emergency
15 related to coronavirus disease 2019, also known as COVID-19, has ended, the
16 provisions of law suspended by this act shall be in full force and effect.

17 (d) The expiration of this act shall not affect any rights acquired
18 under this act or any pending lawsuits related to this act.

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20 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
21 General Assembly of the State of Arkansas that coronavirus disease 2019, also
22 known as COVID-19, was declared a public health emergency by the Governor on
23 March 11, 2020; that the Department of Health and the State Board of Health
24 issued guidance on March 21, 2020 and a directive on April 3, 2020 to
25 postpone or reschedule elective procedures; that healthcare professionals and
26 healthcare facilities have expressed confusion as to what elective procedures
27 are covered by the guidance and directive; and that this act is immediately
28 necessary to clarify the existing directives from the Department of Health
29 and the State Board of Health on elective procedures and to protect the
30 citizens of Arkansas from needlessly contracting coronavirus disease 2019,
31 also known as COVID-19, through elective procedures. Therefore, an emergency
32 is declared to exist, and this act being immediately necessary for the
33 preservation of the public peace, health, and safety shall become effective
34 on:

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

36 (2) If the bill is neither approved nor vetoed by the Governor,

1 the expiration of the period of time during which the Governor may veto the
2 bill; or

3 (3) If the bill is vetoed by the Governor and the veto is
4 overridden, the date the last house overrides the veto."

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