

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

INTERIM STUDY PROPOSAL 2009-016

State of Arkansas  
87th General Assembly  
Regular Session, 2009

# A Bill

HOUSE BILL 2188

By: Representative Blount

Filed with: House Interim Committee on Public Health, Welfare and Labor  
pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

AN ACT TO PROTECT CONSUMERS CONCERNING HOSPITAL  
COSTS; TO PROVIDE HOSPITAL CHARITY CARE  
TRANSPARENCY; TO PROHIBIT UNFAIR DEBT COLLECTIONS  
BY HOSPITALS; AND FOR OTHER PURPOSES.

## Subtitle

AN ACT TO PROVIDE HOSPITAL CHARITY CARE  
TRANSPARENCY AND TO PROHIBIT UNFAIR DEBT  
COLLECTIONS BY HOSPITALS.

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

SECTION 1. Arkansas Code Title 20, Chapter 9 is amended to add an additional subchapter to read as follows:

20-9-1301. Findings.

The General Assembly finds that:

(1) Arkansans through their state and federal taxes provide hundreds of millions of dollars in payments and essential provider payments to Arkansas's hospitals annually;

(2) Arkansas's tax-exempt hospitals also enjoy additional hundreds of millions of dollars in tax exemptions, the cost of which is borne by taxpaying families and businesses;

(3) Taxpayer support for hospitals is premised on the hospitals' assurances that the hospitals afford a health care safety net to Arkansas by



1 providing charity care and other community services;

2 (4) Many Arkansas families do not have access to adequate health  
3 insurance that fully covers their hospital expenses;

4 (5) Hospital bills are an increasing source of financial  
5 hardship even for working families with health insurance and a leading cause  
6 of personal bankruptcy in Arkansas;

7 (6) It is inconsistent with a hospital's responsibilities to the  
8 community and taxpayers that support it for the hospital to engage in  
9 deceptive or discriminatory pricing and collection practices;

10 (7) A hospital operates unfairly if it fails to disclose,  
11 document, and provide charity care and community service commensurate with  
12 the amount of direct subsidies and tax exemptions it enjoys;

13 (8) It is inconsistent with a hospital's responsibilities to the  
14 community and taxpayers that support it to engage in abusive collection  
15 practices against consumers who are attempting in good faith to pay their  
16 bills; and

17 (9) The American Hospital Association and the Catholic Health  
18 Association and Voluntary Hospital Association have urged hospitals to ensure  
19 transparency in their pricing, collection, and charity policies and  
20 practices, but random surveys demonstrate that pricing transparency has not  
21 become the norm among Arkansas hospitals.

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23 20-9-1302. Definition.

24 (1) As used in this subchapter, "hospital" means a facility used  
25 for the purpose of providing inpatient diagnostic care or treatment,  
26 including general medical care, surgical care, obstetrical care, psychiatric  
27 care, and specialized services or specialized treatment that is subject to  
28 the rules and regulations for hospitals in Arkansas.

29 (2) "Hospital" does not mean a facility the primarily provides  
30 long-term care.

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32 20-9-1303. Annual reports of charity care.

33 (a) Within one hundred fifty (150) days after the end of a hospital's  
34 fiscal year, the hospital licensed by the Department of Health and any  
35 closely related entity of the hospital shall submit to the department a  
36 report describing, including without limitation:

1           (1) The value of the entity's exemption from and federal, state,  
2 or local tax or licensure fee obligation;

3           (2) The value of any public subsidy received by the entity,  
4 including the amount of benefit realized by the hospital from its use of  
5 public bonds or other financing, other than public reimbursement for the care  
6 of an identifiable patient;

7           (3) The amount of any charity care, provided by the hospital  
8 excluding any amounts that have been the subject of collection efforts and  
9 which are deemed bad debt under applicable accounting principles; and

10           (4) The amount of any charity care of any uncompensated  
11 community service provided by the hospital.

12           (b)(1) A hospital that maintains, either directly or through an  
13 affiliated organization, a worldwide website on which it disseminates  
14 information to the public regarding its services shall post on the site  
15 without limitation:

16           (A) The hospital's joint annual report for each of the  
17 five (5) most recent years for which reports are available;

18           (B) A hyperlink to hospital's information posted on the  
19 Hospital Compare website operated by the United States Department of Health  
20 and Human Services;

21           (C) A copy of the hospital's statement of its charity care  
22 policies;

23           (D) A statement of the hospital's financial requirements  
24 for admission or treatment, including without limitation the amount of any  
25 required financial deposit or prepayment, and the circumstances under which  
26 the requirements shall be waived;

27           (E) A plain language description of the debt collection  
28 standards, policies, and protections used by the hospital;

29           (F)(i) If the hospital or a related entity is an exempt  
30 organization under § 501(c) of the Internal Revenue Code, copies of the IRS  
31 Form 990 returns and Schedule H submitted in each of the past five (5) years  
32 for the hospital and any related entity.

33           (ii) For purposes of subdivision (c)(F)(i), the  
34 hospital shall post only those portions of the returns that are required  
35 under federal law to be made publicly available; and

36           (G) A copy of the Form 990 and Schedule H filed by the

1 hospital or its parent organization.

2 (2) The website shall provide conspicuous notice to the public  
3 of the availability of the materials listed under subdivision (b)(1) of this  
4 section.

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6 20-9-1304. Fair debt collection practices for hospitals.

7 (a) A hospital, an entity acting as the agent of a hospital, and an  
8 assignee or successor in interest of a hospital shall comply with the fair  
9 debt collection practices under this section.

10 (b) A hospital shall have a written policy defining standards and  
11 practices for the collection of debt incurred by patients for medical  
12 treatment or supplies furnished by the hospital, including without limitation  
13 policies that:

14 (1) Prohibit the hospital from turning a patient's bill over to  
15 a collection agent for one hundred eighty (180) days after the patient  
16 receives the bill;

17 (2) Bar the hospital from charging interest on patient debt;

18 (3) Require hospitals to screen patients for eligibility for  
19 public programs for the reimbursement of hospital costs;

20 (4) Require third parties collecting the hospital's debt to  
21 abide by the hospital's debt collection policies; and

22 (5) Establish standards for determining the financial ability of  
23 a patient or the patient's guarantors to pay for treatment or supplies  
24 received from the hospital, taking into account without limitation the  
25 person's:

26 (A) Available assets;

27 (B) Family size;

28 (C) Income; and

29 (D) Reasonably anticipated future medical expenses based  
30 on the patient's or the guarantor's current medical condition and other  
31 financial obligations.

32 (c) A hospital, its agent, assignee, or successor in interest shall  
33 not demand from a patient or the patient's guarantor payment for medical  
34 treatment or supplies in amounts or on a schedule that exceeds the person's  
35 ability to pay as determined under the hospital's standards and policies  
36 established under subsection (b) of this section.

1       (d) When seeking payment for treatment or supplies that a hospital has  
2 provided to a patient, the hospital, its agent, assignee, or successor in  
3 interest shall not garnish wages, execute against, or file a lien on real  
4 property that is the patient's or the patient's guarantor's primary residence  
5 unless there has been a judicial finding that:

6               (1)(A) The patient or the patient's guarantor has the financial  
7 means to immediately pay the full balance owed but willfully refuses to pay;  
8 or

9               (B) The patient or the patient's guarantor has the  
10 financial means to pay the balance in installments, has been afforded a  
11 reasonable opportunity to do so, but has willfully failed to pay installments  
12 when they were due; and

13               (2) In the case of an execution or lien against real property,  
14 the property is not the primary residence of a spouse or of a minor or  
15 disabled child of the patient or the patient's guarantor.

16       (e) A judicial finding that involves a determination of the patient's  
17 or the patient's guarantor's ability to pay a hospital bill shall take into  
18 account a person's:

19                       (A) Available assets;

20                       (B) Family size;

21                       (C) Income; and

22                       (D) Reasonably anticipated future medical expenses based  
23 on the patient's or the guarantor's current medical condition.

24       (f) A hospital, its agent, assignee, or successor interest shall  
25 provide the patient or the patient's guarantor a copy of the hospital's  
26 policy required by subsection (b) of this section, and a plain language  
27 description of the rights and protections guaranteed by subsections (c) and  
28 (d) of this section:

29               (1) If:

30                       (A) The hospital, its agent, assignee, or successor  
31 interest sends a patient or the patient's guarantor its first communication  
32 seeking payment;

33                       (B) The patient or the patient's guarantor requests a copy  
34 of the hospital's bill; and

35                       (C) The hospital, its agent, assignee, or successor  
36 interest files suit against the patient or the patient's guarantor to collect

1 a debt for hospital treatment or supplies; and

2 (2) At least five (5) days before seeking or accepting from the  
3 patient or the patient's guarantor a payment plan, contract, or accord and  
4 settlement of any debt for hospital treatment or supplies.

5 (g) This section does not apply to collection efforts directed at a  
6 tortfeasor or at a government or private third-party insurer.

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8 20-9-1305. Rules.

9 The State Board of Health shall adopt rules to implement this  
10 subchapter.

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