

## MINUTES OF ARKANSAS CODE REVISION COMMISSION MEETING

Thursday, December 15, 2022  
1:00 P.M.  
Room B, MAC Little Rock, Arkansas

Commission members and others present: Speaker Matthew Shepherd, Chair; Senator Trent Garner; Senator Clarke Tucker; Representative Gazaway; Commissioner Robert F. Thompson; Commissioner Camille Bennett; Cynthia Nance, Dean, University of Arkansas at Fayetteville, School of Law; Brian Bowen, Office of Attorney General; Leslie Metheney, Lexis Nexis Law Publishing; Vincent Henderson II, Arkansas Code Revisor; Matthew Miller, Assistant Director for Legal Services of the Bureau of Legislative Research.

Commissioner Shepherd called the meeting to order.

### **Minutes of the September 22, 2022, Meeting – Exhibit B**

**Senator Garner moved to approve the Minutes and Representative Gazaway seconded the motion. The motion to approve the Minutes was adopted.**

### **Discussion of contract requirements by the publisher – Exhibit C**

Chair Shepherd recognized the LexisNexis representative, Leslie Metheney, with Lexis Law Publishing to discuss the contract amendment from the previous meeting on September 22, 2022. Chair Shepherd stated that it is his understanding that the amendment was reviewed by the Bureau and there were no issues. Mr. Henderson said that is correct.

**Representative Gazaway moved to approve the contract amendment and Robert F. Thompson seconded the motion. The motion to approve the amendment was adopted.**

### **Proposed Technical Corrections for 2023 Legislative Session – Exhibits D**

Chair Shepherd recognized Mr. Henderson to discuss the proposed changes to each technical corrections bill.

**D5**–Title 5–The commission asked the Bureau to contact the sponsor of the legislation containing the definition of serious harm. The Bureau is still waiting to hear back from the sponsor.

**D6**–Title 6–A question came up in section 5 concerning the name of the School of Criminal Justice and Criminology and the director of the school. A minor change was made to resolve name issues.

**D15**–Title 15–On line 26, page 1, tax incentive is highlighted. The Bureau initially put rebate or tax credit there and the Commission asked the Bureau to change it back to tax incentive, which has been done.

**D20A and D20B**–Title 20–There are two statutes involved here. The Commission asked the Bureau to check with the sponsor of the legislation on this issue and the sponsor stated that because the section is a “do not codify” section and would be obsolete as of January 1, 2023, the sponsor did not see the need for it to be amended. Mr. Henderson stated his concern that while it’s true it would kick in Jan 1, 2023, subsection (b) reads: “a person who is performing an abortion or an agent of the person performing the abortion shall:”. The concern is that this could be read as to be made to be effective as of July 28, 2021, through January 1, 2023, and is why we recommended it be corrected.

**\*\*Chair Shepherd asks what are the proposed changes:**

Mr. Henderson stated: If you will look at the language in Section 4, the only change is the reference to 20-16-2407(a) to be changed to 20-16-2407(b) which refers to a person who is performing an abortion.

Representative Gazaway would like to hear from the Department of Health

**D23**–Title 23–The commission asked that the actual language being repealed be indicated and stricken through which was done.

**D24**–Title 24–The commission asked the Bureau to contact the Teacher Retirement System and Local, Police, and Fire Retirement System to make sure that in sections 3 and 4 where obsolete language is being repealed, to make sure it does not affect present and future retirements. The systems explained that the repeals would not affect retirements.

**D25**–Title 25–A question came up regarding temporary language that was codified. On page 4, lines 9-10, the stricken language reads ~~If the Legislative Council votes to repeal a rule, the rule shall sunset after December 31, 2022.~~ This has to do with milk and cattle productions and rules. By the time session occurs, this issue will be obsolete.

**Representative Gazaway moved to approve the technical correction bills with exception of D5, D15, and D20A to be considered for further review, and Robert F. Thompson seconded the motion. The motion to approve the technical corrections bills was adopted.**

**Conflict issue between Ark. Code § 17-1-103(b)(1)(A) and 17-3-102(a)— Exhibits E**

Chair Shepherd recognized Mr. Henderson to explain Title 17 conflict resolutions.

Mr. Henderson stated the net results are: The first Act of 1973 sets up that nothing is an automatic bar and the later Act of 2021 sets up that there certain offenses that are made bars but they are not permanent and can be waived by the agency. The bar, even if the agency does nothing, is only good for five years and then after that it comes off. Ms. Camille Bennett states that technically it is not a conflict, but it is very confusing.

**Senator Tucker and Representative Gazaway are committed to looking at this issue in the upcoming session, so if Dean Nance, or your colleagues on the faculty, want to reach out to us to visit about a possible resolution on this, we would be all ears.**

**Technical Corrections Bill Request from Arkansas Rehabilitation Services and Division of Services for the Blind— Exhibit F**

Chair Shepherd recognized Mr. Henderson. Mr. Henderson stated that the Commission received the request from the Arkansas Rehabilitation Services and Division of Services for the Blind, and Mr. Charles Lyford, general counsel for Arkansas Rehabilitation Services and Services for the Blind would speak on the topic. Mr. Lyford stated that the proposal for these technical corrections comes under three sets of authorities for the Commission. The first of those and the majority is Act 910 of 2019, to clean up references to Rehabilitation Services which was a part of the Department of Career Education that was dissolved. Likewise, Services for the Blind was a part of the Department of Human Services and there is one statute that still refers to DHS in Services for the Blind, the correct reference now is the Department of Commerce. The second set of authority for these changes is updates to inaccurate references to agencies and agency officials. The third is a Title 1 statute concerning references to people with disabilities. Chair Shepherd questioned whether any of the issues were not technical corrections and Mr. Henderson responded that some may not be. Mr. Miller stated that the Bureau would do a search for “handicap” references in the Code.

**Senator Tucker moved to approve the technical correction portion of Exhibit F as a Commission technical correction bill. Senator Garner seconded the motion. The motion to approve the technical correction portion was adopted.**

**Title 19 Recodification Work Group — Exhibit G**

Chair Shepherd recognized Mr. Henderson. Mr. Henderson stated that the Commission received one response from the Commission's request letting people know about the work group and hopefully its creation next spring. Mr. Henderson stated that we are in the middle of several offices and officers transitioning and we have made contact but have not heard back yet. Mr. Miller asked whether the Bureau should proceed with the work group.

**Chair Shepherd stated that there was no objection for the Bureau to proceed with the work group and the Bureau would report back to the Commission.**

**I. Other Business**

Mr. Henderson reported we are prepared for the upcoming session.

**J. Report of Code Revisor**

Mr. Henderson reported to the Commission that he has decided to retire at the end of the Arkansas General Assembly 2023 Session on March 31<sup>st</sup> of 2023.

**Chair Shepherd, with no further business before the Commission, adjourned the meeting.**