

*As Engrossed: 3/13/91*

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**

# **A Bill**

**HOUSE BILL 1905**

4 **By: Representatives Tullis, Jones, Mahony and Pollan**

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## **For An Act To Be Entitled**

8 "AN ACT TO PROVIDE FOR THE REGULATION OF PLAYGROUNDS; AND  
9 FOR OTHER PURPOSES."

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

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13 SECTION 1. It is hereby found and determined by the General Assembly  
14 that:

15 (a) Nationwide, at least fifteen (15) children were killed and one  
16 hundred ninety-two thousand (192,000) injured in 1988 in playground accidents.  
17 Arkansas has had seven (7) fatalities in the past nine (9) years from  
18 playground accidents.

19 (b) The proper design, installation, inspection, maintenance, and  
20 supervision of playgrounds would prevent many costly injuries and deaths in  
21 this state.

22 (c) Arkansas has fallen behind other states and the federal government  
23 in providing guidelines and other support for safe playgrounds, which develop  
24 skill and confidence in children without imposing undue risk.

25 (d) Generally applicable standards for public playgrounds are needed to  
26 protect children and to stem the increasing exposure of public and private  
27 resources to lawsuits.

28 (e) It is the intent of the General Assembly by enacting this act to  
29 encourage playground safety, and to prevent costly accidents by requiring  
30 regulations which, as accurately as possible, approximate the standard of care  
31 applicable to playground operators. It is expected that these regulations  
32 will improve the conditions in those playgrounds that are not properly  
33 designed, built, maintained, or supervised by warning of safety risks, and  
34 will simplify the task of building safe playgrounds in the future. It is not  
35 the intent of the General Assembly that these regulations shall serve either

1 to shield against liability or to create liability for a playground operator.

2 SECTION 2. As used in this act:

3 (1) "Department" means the Arkansas Department of Health;

4 (2) "Playground" means an improved outdoor area designed, equipped, and  
5 set aside for children's play which is not intended for use as an athletic  
6 playing field or athletic court, and shall include any play equipment,  
7 surfacing, fencing, signs, internal pathways, internal land forms, vegetation,  
8 and related structures; and

9 (3) "Supervision" means all general and specific supervision necessary  
10 to protect children from unreasonable risk of harm from site hazards, the acts  
11 of other children, or the use of playground in a way that was not intended by  
12 the designer or manager of the playground. The regulations pursuant to this  
13 act shall not expand on the periods or circumstances when supervision shall be  
14 provided beyond the periods or circumstances already determined to be within  
15 the existing standard of care to which a playground operator is held.

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17 SECTION 3. On or before January 1, 1993, the department, in  
18 consultation with the Arkansas Recreation and Parks Association, the Arkansas  
19 Department of Parks and Tourism, the Arkansas Department of Education, the  
20 Arkansas Chapter of the *American Society of Landscape Architects, State*  
21 *Building Services, Arkansas Municipal League*, the Division of Children and  
22 Family Services of the Department of Human Services and the Division of  
23 Developmental Disabilities Services of the Department of Human Services shall  
24 adopt regulations for the design, installation, inspection, maintenance, and  
25 supervision where appropriate, and training of personnel involved in the  
26 design, installation, and maintenance, of all playgrounds either operated by  
27 public agencies, including a state agency, city, county, and school district,  
28 or operated by any entity where the playground is open to the public. Those  
29 regulations shall meet the standard of care imposed by courts of law on  
30 playground operators, and shall, at a minimum, impose guidelines and criteria  
31 which shall be at least as protective as the guidelines in the Handbook for  
32 Public Playground Safety produced by the United States Consumer Products  
33 Safety Commission, shall give due consideration to any successor to the  
34 Handbook for Public Playground Safety which may be published, and shall  
35 include more protective requirements where the department finds those  
36 guidelines will provide inadequate protection. The regulations shall include

1 special provisions for playgrounds in day care settings, which shall be  
2 developed in consultation with the Division of Children and Family Services of  
3 the Department of Human Services, and which shall be appropriate for children  
4 within the range of ages in day care settings.

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6 SECTION 4. All entities operating playgrounds open to the public  
7 including state agencies, cities, counties, child care facilities and school  
8 districts, shall upgrade their playgrounds by replacement or improvement as  
9 necessary to satisfy the regulations adopted pursuant to Section 3 of this act  
10 on or before January 1, 1996. This section shall not affect the liability or  
11 absence of liability of playground operators.

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13 SECTION 5. Regulations adopted pursuant to this act shall include  
14 special provisions where appropriate, as determined by the department, for the  
15 needs of the developmentally disabled.

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17 SECTION 6. All rules and regulations promulgated pursuant to this act  
18 shall be reviewed by the Joint Interim Committee on Public Health, Welfare and  
19 Labor or an appropriate subcommittee thereof.

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21 SECTION 7. All new playgrounds open to the public built by a public  
22 agency or any other entity more than six (6) months after the effective date  
23 of the regulations adopted pursuant to this act shall conform to the  
24 requirements of those regulations. Where the playground developer knows of  
25 the regulations before undertaking any expenses related to designing or  
26 building the playground, this six (6) month grace period shall not apply.

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28 SECTION 8. Beginning on January 1, 1992, any accident occurring on any  
29 playground subject to the provisions of this act shall be reported to the  
30 Department of Health on forms prescribed and supplied by the Department.

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32 SECTION 9. All provisions of this act of a general and permanent nature  
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
34 Revision Commission shall incorporate the same in the Code.

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1 SECTION 10. If any provision of this act or the application thereof to  
2 any person or circumstance is held invalid, such invalidity shall not affect  
3 other provisions or applications of the act which can be given effect without  
4 the invalid provision or application, and to this end the provisions of this  
5 act are declared to be severable.

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7 SECTION 11. All laws and parts of laws in conflict with this act are  
8 hereby repealed.

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10 SECTION 12. Emergency. It is hereby found and determined by the  
11 Seventy-Eighth General Assembly that each year many children are killed or  
12 injured in the United States resulting from injuries suffered on playgrounds;  
13 that the proper design, installation, inspection, maintenance, and supervision  
14 of playgrounds would prevent many injuries and deaths in this state; that  
15 applicable standards for playgrounds are needed to protect children; and that  
16 this act provides for the establishment of regulations concerning playgrounds.  
17 Therefore, an emergency is hereby declared to exist and this act being  
18 necessary for the immediate preservation of the public peace, health, and  
19 safety, shall be in full force and effect from and after its passage and  
20 approval.

21 /s/ B. Tullis et al

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