

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Baker**
5
6

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO CREATE THE ARKANSAS LEGAL EXPENSE FUND; AND FOR
9 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. As used in this act:

14 (1) "Child care services" means all licensed physician child health
15 care services provided under contract with the appropriate local health unit,
16 community health center or community action program to a child for a condition
17 or conditions that occurred or arose out of pregnancy or childbirth;

18 (2) "Delivery services" means all medical care given by a licensed
19 physician for delivery and conditions associated with labor and delivery from
20 onset through their resolution;

21 (3) "Fund" means the Arkansas Legal Expense Fund;

22 (4) "Pregnancy services" means all medical care given by a licensed
23 physician during the course of pregnancy for a condition related to pregnancy
24 including a sixty (60) day postpartum period. This includes all medical care
25 for any pregnancy related condition for which treatment is begun during that
26 pregnancy and postpartum period until the resolution of that condition is
27 reached.

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29 SECTION 2. There is hereby created the Arkansas Legal Expense Fund
30 which shall consist of moneys appropriated to the fund by the General Assembly
31 and moneys otherwise credited to the fund as provided by law. This fund shall
32 be administered by the Arkansas Department of Health with the Director of the
33 Department of Health serving as the disbursing officer of this fund.
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35 SECTION 3. Moneys in the Arkansas Legal Expense Fund shall be available

1 for the payment of any claim or any amount required by any final judgement
2 rendered by a court of competent jurisdiction against:

3 (1) any physician licensed to practice medicine in Arkansas, who is
4 employed by or under direct or consultant contract with a city or county unit
5 of the State Health Department or a combined city-county health department to
6 provide services to patients for medical care caused by pregnancy, delivery,
7 and child care, if such medical services are provided by the physician
8 pursuant to the contract without compensation or the physician is paid from no
9 other source than a governmental agency except for patient copayments required
10 by federal or state law or local ordinance; or

11 (2) any physician licensed to practice medicine in Arkansas, who is
12 employed by or under contract with a federally funded community health center
13 organized under sections 315, 329, 330 or 340 of the Public Health Services
14 Act (42 U.S.C. 216.254c) or community action program organized under Ark. Code
15 Ann. §20-80-310 to provide services to patients for medical care caused by
16 pregnancy, delivery and child care, if such medical services are provided by
17 the physician pursuant to the contract or employment agreement without
18 compensation or are paid from no other source than a governmental agency or
19 such a federally funded community health center or community action program
20 except for patient copayments required by federal or state law or local
21 ordinance.

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23 SECTION 4. Any person making a claim under the provisions of this act
24 shall be qualified or disqualified for such claim by the Arkansas State Claims
25 Commission which shall have such jurisdiction and authority as is granted to
26 the commission under Ark. Code Ann. §19-10-201 et seq. Any claim or judgment
27 arising under this section shall be paid by the Arkansas Legal Expense Fund to
28 the extent damages are allowed by law. Liability or malpractice insurance
29 obtained and maintained in force by any physician for coverage concerning his
30 or her private practice and personal assets of the physician shall not be
31 considered available to pay judgments for which the fund is liable under this
32 act. A physician may purchase liability or malpractice insurance for coverage
33 of liability claims or judgments based upon care rendered under this act which
34 exceed the amount of liability coverage provided by the fund under this act.
35 Even if this act is repealed or modified, the fund shall be available for

1 damages which occur while this act is in effect. In the case of any claim or
2 judgment that arises under this act, the aggregate of payments from the fund
3 shall be limited to a maximum of one million dollars (\$1,000,000) for any one
4 (1) claimant.

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6 SECTION 5. The Department of Health shall promulgate all rules and
7 regulations regarding contract procedures.

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9 SECTION 6. All provisions of this act of a general and permanent nature
10 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
11 Revision Commission shall incorporate the same in the Code.

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13 SECTION 7. If any provision of this act or the application thereof to
14 any person or circumstance is held invalid, such invalidity shall not affect
15 other provisions or applications of the act which can be given effect without
16 the invalid provision or application, and to this end the provisions of this
17 act are declared to be severable.

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

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