

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas As Engrossed: S3/10/99 S3/16/99 S3/29/99 S4/7/99

2 82nd General Assembly

# A Bill

3 Regular Session, 1999

SENATE BILL 939

4

5 By: Senator Webb

6

7

8

## For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE TITLE 20, CHAPTER 47,  
10 SUBCHAPTER 2 TO AMEND THE CRITERIA FOR INVOLUNTARY  
11 ADMISSIONS; TO PERMIT MEMBERS OF THE TREATMENT STAFF  
12 TO TESTIFY AT HEARINGS; TO REDUCE THE BURDEN OF PROOF  
13 IN FINDING THE PERSON TO BE A DANGER TO HIMSELF OR  
14 OTHERS; AND FOR OTHER PURPOSES."

15

16

## Subtitle

17

"TO AMEND ARKANSAS CODE TITLE 20, CHAPTER  
18 47, THE TREATMENT OF THE MENTALLY ILL,  
19 TO DEFINE NEW CRITERIA FOR INVOLUNTARY  
20 ADMISSIONS."

21

22

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

24

25 SECTION 1. Arkansas Code 20-47-201 is amended to add an additional  
26 subsection to read as follows:

27 "(d) It is the policy of this state and specifically the intent of the  
28 Arkansas Legislature to recognize hat persons subject to the involuntary  
29 admission proceedings outlined in this chapter are mentally ill, in need of  
30 care and treatment, and retain their constitutional rights and therefore, they  
31 should not be punished for the symptoms of their mental illness."

32

33 SECTION 2. Arkansas Code 20-47-202 is amended to read as follows:

34 "20-47-202. Definitions.

35 (a) 'Administrator' refers to the chief administrative officer or  
36 executive director of any private or public facility or of any community

1 mental health center certified by the Division of Mental Health Services.

2 (b) 'Community mental health center' refers to a program and its  
3 affiliates established and administered by the state, or a private, nonprofit  
4 corporation certified by the Division of Mental Health Services for the  
5 purpose of providing mental health services to the residents of a defined  
6 geographic area and which minimally provides 24-hour emergency, inpatient,  
7 outpatient, consultation, education, prevention, partial care, follow-up and  
8 aftercare, and initial screening and precare services. The division may  
9 contract with a community mental health center for the operation and  
10 administration of any services which are part of the state mental health  
11 system.

12 (c) 'Crisis response services' refers to immediate or emergency  
13 treatment. Because mental illnesses are often of an episodic nature, there  
14 will be instances that require acute and quick crisis response services.

15 (d) '~~Deputy director~~ Director' refers to the chief executive officer  
16 for the Division of Mental Health Services of the Department of Human  
17 Services.

18 (e) 'Detention' refers to any confinement of a person against his  
19 wishes and begins ~~either~~ the earlier of, but not to exceed nine (9) days when:

20 (1) ~~When a~~ A person is involuntarily brought to a receiving  
21 facility or program or to a hospital; or

22 (2) ~~When,~~ A person pursuant to § 20-47-209(a), ~~the person~~  
23 appears for the initial hearing; or

24 (3) ~~When a~~ A person on a voluntary status in a receiving facility  
25 or program or a hospital requests to leave pursuant to § 20-47-204(3).

26 (f) 'Division' refers to the Division of Mental Health Services of the  
27 Department of Human Services.

28 (g) 'Hospital' refers to the University of Arkansas for Medical  
29 Sciences Hospital, the federal Department of Veterans Affairs Hospitals, or  
30 any private hospital with a fully trained psychiatrist on the active or  
31 consultant staff.

32 (h) 'Initial screening' refers to initial screening services conducted  
33 by a mental health professional provided by a receiving facility or program  
34 for individuals residing in the area served by the receiving facility or  
35 program who are being considered for referral to inpatient programs of the  
36 state mental health system to determine whether or not the individual meets

1 the criteria for voluntary or involuntary admission and to determine whether  
2 or not appropriate alternatives to institutionalization are available. Such  
3 screening services shall be available to community organizations, agencies, or  
4 private practitioners who are involved in making referrals to the state mental  
5 health system.

6 (i) 'Least restrictive appropriate setting' for treatment refers to the  
7 available treatment setting which provides the person with the highest  
8 likelihood of improvement or cure, and which is not more restrictive of the  
9 person's physical or social liberties than is necessary for the most effective  
10 treatment of the person, and for adequate protection against any dangers which  
11 the person poses to himself or others.

12 (j)(1) 'Mental illness' refers to a substantial impairment of emotional  
13 processes, or of the ability to exercise conscious control of one's actions,  
14 or the ability to perceive reality or to reason, when the impairment is  
15 manifested by instances of extremely abnormal behavior or extremely faulty  
16 perceptions.

17 (2) It does not include impairment solely caused by:

18 (A) Epilepsy;

19 (B) Mental retardation;

20 (C) Continuous or noncontinuous periods of intoxication  
21 caused by substances such as alcohol or drugs; or

22 (D) Dependence upon or addiction to any substance such as  
23 alcohol or drugs.

24 (k) 'Physician' refers to a medical doctor licensed to practice in  
25 Arkansas.

26 (l) 'Psychosurgery' refers to those operations currently referred to as  
27 lobotomy, psychiatric surgery, and behavioral surgery and all other forms of  
28 brain surgery if the surgery is performed for the purpose of the following:

29 (1) Modification or control of thoughts, feelings, actions, or  
30 behavior rather than the treatment of a known and diagnosed physical disease  
31 of the brain; or

32 (2) Modification of normal brain function or normal brain tissue  
33 in order to control thoughts, feelings, actions, or behavior; or

34 (3) Treatment of abnormal brain function or abnormal brain tissue  
35 in order to modify thoughts, feelings, actions, or behavior when the  
36 abnormality is not an established cause of those thoughts, feelings, actions,

1 or behavior.

2 (m) 'Mental health professional' refers to any one (1) of the following  
3 individuals:

4 (1) A psychologist or a psychological examiner with at least a  
5 master's degree who has been licensed by the Arkansas Board of Examiners in  
6 Psychology;

7 (2) A social worker with a master's degree in social work from an  
8 accredited program who has been licensed by the Arkansas Social Work Licensing  
9 Board;

10 (3) A registered nurse with a master's degree in psychiatric and  
11 mental health nursing from an accredited program who has been licensed by the  
12 Arkansas State Board of Nursing;

13 (4) A registered nurse, licensed by the Arkansas State Board of  
14 Nursing, with a minimum of one (1) year of experience in a mental health  
15 setting under the supervision of a physician or a registered nurse as defined  
16 by subdivision (3) of this subsection;

17 (5) A licensed professional counselor with a master's degree in a  
18 mental health related field who has been licensed by the Arkansas Board of  
19 Examiners in Counseling; and

20 (6) A psychiatrist or other physician as defined by subsection  
21 (k) of this section.

22 ~~(m)(n)~~ 'Receiving facility or program' refers to an inpatient or  
23 outpatient treatment facility or program which is designated within each  
24 ~~geographic~~ catchment area of the state by the ~~Deputy~~ Director for the Division  
25 of Mental Health Services of the Department of Human Services to accept the  
26 responsibility for care, custody, and treatment of persons involuntarily  
27 admitted to the state mental health system.

28 ~~(n)(o)~~ 'State mental health system' refers to the ~~Little Rock~~ Arkansas  
29 State Hospital, ~~the George W. Jackson Community Mental Health Center in~~  
30 ~~Jonesboro, Arkansas,~~ and any other hospital, facility or program licensed or  
31 certified by the Division of Mental Health Services of the Department of Human  
32 Services.

33 ~~(e)(p)~~ 'Treatment' refers to those psychological, educational, social,  
34 chemical, medical, somatic, or other techniques designed to bring about  
35 rehabilitation of persons with mental illness. Treatment may be provided in  
36 inpatient and outpatient settings.

1           ~~(p)~~(q) 'Treatment plan' refers to an individualized written document  
2 developed by the treatment staff of the hospital or receiving facility or  
3 program which includes the following:

4           ~~(1) A substantiated diagnosis in the terminology of the American~~  
5 ~~Psychiatric Associations Diagnostic and Statistical Manual;~~

6           ~~(2)~~(1) Short-term and long-term treatment goals;

7           ~~(3)~~(2) Treatment programs, facilities and activities to be  
8 utilized to achieve the treatment goals; ~~and~~

9           ~~(4)~~(3) Methods for periodic review and revision of the treatment  
10 plan; and

11           (4) Identification of members of the treatment staff.

12           (r) 'Treatment staff' means those mental health professionals  
13 identified by the treatment plan who develop the treatment plan and will be  
14 responsible for coordinating and carrying out the provisions of the treatment  
15 plan."

17           SECTION 3. Arkansas Code 20-47-204 (4), pertaining to voluntary  
18 admissions is amended to read as follows:

19           “(4)(A) A person voluntarily admitted who absents himself from a  
20 hospital or receiving facility or program, as defined in this subchapter, may  
21 be placed on elopement status ~~and a pick-up order issued~~ if, in the opinion of  
22 the treatment staff, the person meets the criteria for involuntary admission  
23 as defined in § 20-47-207.

24           (B) It shall be the responsibility of the sheriff of the  
25 county or a law enforcement officer of the first-class city in which the  
26 individual is physically present to transport the individual.

27           (C) Upon return to the hospital or receiving facility or  
28 program, this individual shall be held under detention as defined in § 20-47-  
29 202(e).”

31           SECTION 4. Arkansas Code 20-47-205 is amended to read as follows:

32           “20-47-205. Jurisdiction of probate court.

33           (a) The probate courts of this state shall have exclusive jurisdiction  
34 of the involuntary admission procedures initiated pursuant to this subchapter,  
35 except that the juvenile division of the chancery court or such other court or  
36 courts as may hereafter be vested with such jurisdiction shall have concurrent

1 jurisdiction to involuntarily ~~commit~~ admit persons under eighteen (18) years  
2 of age to the extent provided by this section.

3 ~~(b) The probate court shall conduct, within seven (7) days excluding~~  
4 ~~weekends and holidays, of the person's detention, the hearing as defined in §~~  
5 ~~20-47-214.~~

6 ~~(1)(b)~~ Except as otherwise provided, the hearing, as defined by §  
7 20-47-214 and 20-47-215, shall be conducted by the same court, or a judge  
8 designated on exchange, who heard the original petition and issued the  
9 appropriate order.

10 ~~(2)(c)~~ The court shall ensure that the person sought to be  
11 involuntarily admitted is afforded all his or her rights as prescribed by this  
12 subchapter.

13 ~~(c)(d)~~ The hearings conducted pursuant to §§ 20-47-209, ~~and~~ 20-47-214,  
14 and 20-47-215 may be held at inpatient programs of the state mental health  
15 system or a receiving facility or program where the person is detained.

16 ~~(d) The probate judge, when conducting any hearing set out in this~~  
17 ~~subchapter, may conduct said hearing within any county of the judge's judicial~~  
18 ~~district.~~

19 (e) ~~Each A Sixth Judicial District~~ probate judge ~~within the Sixth~~  
20 ~~District~~ may conduct involuntary ~~commitment~~ admission hearings prescribed by  
21 §§ 20-47-214 and 20-47-215 and initiated in other Judicial Districts of this  
22 State pursuant to 20-47-207 and 20-47-209, provided that the person sought to  
23 be ~~committed~~ admitted is detained within the boundaries of the Sixth Judicial  
24 District at the time of the hearing held pursuant to 20-47-214 and 20-47-215.  
25 The Sixth Judicial District probate judge shall assume the mantle of other  
26 Judicial Districts and shall have the authority to enter treatment Orders for  
27 other Judicial Districts in the hearings prescribed by 20-47-214 and 20-47-  
28 215. In such cases, no initial petitions as described in 20-47-207 shall be  
29 filed in the Sixth Judicial District, but only in the court of original  
30 jurisdiction. Provided, however, if the person was transported to a location  
31 within the Sixth Judicial District by order of a court outside the Sixth  
32 Judicial District, the court of original jurisdiction may conduct the hearings  
33 prescribed by §§ 20-47-214 and 20-47-215. "  
34

35 SECTION 5. Arkansas Code 20-47-207 is amended to read as follows:

36 "20-47-207. Involuntary admission - Original petition.

1 (a) *Written Petition - Venue.* Any person having reason to believe that  
2 a person meets the criteria for involuntary admission as defined in subsection  
3 (c) of this section may file a verified petition with the clerk of the probate  
4 court of the county in which the person alleged to have mental illness resides  
5 or is initially detained.

6 (b) *Contents of Petition.* The petition for involuntary admission shall:

7 (1) State whether the person is ~~believed to be of danger to~~  
8 ~~himself or others as defined in subsection (c) of this section~~ in such mental  
9 condition as a result of mental illness as to create a likelihood of serious  
10 harm to himself or others;

11 (2) Describe the conduct, clinical signs, and symptoms upon which  
12 the petition is based. Such description shall be limited to facts within the  
13 petitioner's personal knowledge;

14 (3) Contain the names and addresses of any witnesses having  
15 knowledge relevant to the allegations contained in the petition;

16 (4) Contain a specific prayer for involuntary admission of the  
17 person to a hospital or to a receiving facility or program for treatment  
18 pursuant to § 20-47-218(c).

19 (c) *Involuntary Admission Criteria.* ~~A person shall be eligible for~~  
20 ~~involuntary admission if he is in such mental condition as a result of mental~~  
21 ~~illness disease or disorder that he poses a clear and present danger to~~  
22 ~~himself or others;~~

23 (1) ~~As used in this subsection, "a clear and present danger to~~  
24 ~~himself" is established by demonstrating that:~~

25 (A) ~~The person has inflicted serious bodily injury on~~  
26 ~~himself or has attempted suicide or serious self-injury and there is a~~  
27 ~~reasonable probability that such conduct will be repeated if admission is not~~  
28 ~~ordered; or~~

29 (B) ~~The person has threatened to inflict serious bodily~~  
30 ~~injury on himself and there is a reasonable probability that such conduct will~~  
31 ~~occur if admission is not ordered; or~~

32 (C) ~~The person's behavior demonstrates that he so lacks the~~  
33 ~~capacity to care for his own welfare that there is a reasonable probability of~~  
34 ~~death, serious bodily injury, or serious physical or mental debilitation if~~  
35 ~~admission is not ordered.~~

36 (2) ~~As used in this subsection, "A clear and present danger to~~

1 ~~others" is established by demonstrating that the person has inflicted,~~  
2 ~~attempted to inflict, or threatened to inflict serious bodily harm on another,~~  
3 ~~and there is a reasonable probability that such conduct will occur if~~  
4 ~~admission is not ordered.~~

5 (1) A person may be involuntarily admitted to the mental health system  
6 when the person is in such mental condition as a result of mental illness that  
7 he poses a clear and present danger to himself or others which is established  
8 by demonstrating that:

9 (A) The person has inflicted serious bodily injury on himself or  
10 others or has attempted suicide or serious self-injury and there is a  
11 reasonable probability that such conduct will be repeated if admission is not  
12 ordered; or

13 (B) The person has threatened to inflict serious bodily injury on  
14 himself or others and there is reasonable probability that such conduct will  
15 occur if admission is not ordered; or

16 (C) The person's behavior demonstrates that he still lacks the  
17 capacity to care for his own welfare, that there is a reasonable probability  
18 of death, serious bodily injury, or serious physical or mental debilitation if  
19 admission is not ordered.

20 (2) A person may be involuntarily admitted under this subchapter to the  
21 mental health system for an addition one hundred eighty (180) day involuntary  
22 admission order if it is determined that:

23 (A) There is a preponderance of evidence that if the person is  
24 not treated, the person's mental health condition will substantially  
25 deteriorate resulting in a danger to himself or others based upon acts,  
26 threats, or patterns in the person's treatment history, current condition, and  
27 other relevant factors; or

28 (B) There is a preponderance of evidence that if the person is  
29 not treated, the person's physical health will substantially deteriorate  
30 resulting in serious injury, disease, or death, based upon recent poor self-  
31 control or judgement in providing one's shelter, nutrition, or personal care."

32  
33 SECTION 6. Arkansas Code 20-47-209 (c) is amended to read as follows:

34 "20-47-209. Failure to appear - Exceptions from appearance requirement.

35 (c)(1) The petitioner shall appear before the probate judge hearing  
36 such petition to substantiate the petition.



1           (2) The court shall make a determination based on clear and  
2 convincing evidence that there is probable cause to believe that the person  
3 has a mental illness, disease, or disorder and that one (1) of the criteria  
4 for involuntary admission applies to the person.

5           (3) If such a determination is made, the person shall be admitted  
6 for evaluation, and a hearing pursuant to § 20-47-214 shall be ~~held within the~~  
7 period specified in § 20-47-205 scheduled upon completion of the evaluation  
8 and shall be held no later than nine (9) days from the date of the person's  
9 detention. "

10  
11       SECTION 7. Arkansas Code 20-47-210 is amended to read as follows:

12       "20-47-210. Immediate confinement - Initial evaluation and treatment.

13       (a) ~~Whenever it appears that a person is of danger to himself or others~~  
14 in such mental condition as a result of mental illness, disease, or disorder  
15 as to create a likelihood of serious harm to himself or others, as defined in  
16 § 20-47-207(c)(1), and immediate confinement appears necessary to avoid harm  
17 to such person or others:

18           (1) An interested citizen may take said person to a hospital or  
19 to a receiving facility or program. If no other safe means of transporting  
20 such individual is available, ~~it~~ transportation shall be the responsibility of  
21 the law enforcement agency that exercises jurisdiction ~~at the site~~ where the  
22 individual is physically located ~~and requiring transportation~~, or unless  
23 otherwise ordered by the judge. A petition, as provided in § 20-47-207, shall  
24 be filed in the probate court of the county in which the person resides or is  
25 detained within seventy-two (72) hours, excluding weekends and holidays, and a  
26 hearing, as provided in § 20-47-209(a)(1) shall be held; or

27           (2) Any person filing a petition for involuntary admission may  
28 append to such petition a request for immediate confinement which shall state  
29 with particularity facts personally known to the affiant which establish  
30 reasonable cause to believe that the person sought to be involuntarily  
31 admitted is in imminent danger of death or serious bodily harm, or that the  
32 lives of others are in imminent danger of death or serious bodily harm due to  
33 the mental state of the person sought to be involuntarily admitted.

34           (b)(1) When a petition for involuntary admission with a request for  
35 immediate confinement appended thereto is filed, the petitioner shall then  
36 appear before a probate judge of the county where the person sought to be

1 immediately confined resides or is found.

2 (2) The probate judge shall then conduct an ex parte hearing for  
3 the purpose of determining whether there is reasonable cause to believe that  
4 the person meets the criteria for involuntary admission and, further, that the  
5 person is in imminent danger of death or serious bodily harm, or that others  
6 are in danger of death or serious bodily harm due to the mental condition of  
7 the person sought to be involuntarily admitted.

8 (3) If the probate judge determines that immediate confinement is  
9 necessary to prevent death or serious bodily harm to either the person sought  
10 to be involuntarily admitted or others, the judge shall order the law  
11 enforcement agency that exercises jurisdiction at the site where the  
12 individual is physically present to transport the individual to an appropriate  
13 receiving facility. A hearing, as provided for in § 20-47-209(a)(1), shall be  
14 held within seventy-two (72) hours of the person's detention and confinement.

15 (c) If the person is transported to a hospital or receiving facility or  
16 program, or to the office of a licensed physician of the State of Arkansas, or  
17 of the federal government, either salaried or self-employed, for purposes of  
18 initial evaluation and treatment, then the hospital or receiving facility or  
19 program, or physician may detain such person for initial evaluation and  
20 treatment provided:

21 (1) The person is immediately advised of his rights as provided  
22 in § 20-47-211; and

23 (2) The person is determined by ~~the~~ a mental health professional  
24 ~~treatment staff~~ of the hospital or receiving facility or program, ~~or by the~~  
25 ~~physician~~ to be of danger to himself or others ~~as defined in § 20-47-202~~; and

26 (3) A hearing pursuant to § 20-47-209(a)(1) is held within the  
27 specified time period.

28 (d) Nothing herein shall prevent the person so detained from being  
29 released sooner than the period specified in § 20-47-205 if in the judgment of  
30 the treatment staff of the hospital or of the receiving facility ~~or of the~~  
31 ~~treating physician~~ the person does not require further mental health  
32 treatment. The court shall be immediately advised in writing of such release  
33 and shall dismiss the action."

34

35 SECTION 8. Arkansas Code 20-47-211 is amended to read as follows:

36 "20-47-211. Notification of rights.

1 Along with the copy of the petition, and the copy of the order directing  
 2 appearance for an initial evaluation, or an order of detention, the person  
 3 sought to be involuntarily admitted, and the person's attorney or court-  
 4 appointed counsel, shall each be served with a copy of the following statement  
 5 of rights:

6 (1) That he has the right to effective assistance of counsel, including  
 7 the right to a court-appointed attorney;

8 (2) That he and his attorney have a right to be present at all  
 9 significant stages of the proceedings and at all hearings; except no attorney  
 10 shall be entitled to be present upon examination of the person by ~~the~~  
 11 ~~physician or~~ any member of the treatment staff pursuant to an evaluation,  
 12 whether initially, or subsequently;

13 (3) That he has the right to present evidence in his own behalf;

14 (4) That he has the right to cross-examine witnesses who testify  
 15 against him;

16 (5) That he has a right to remain silent;

17 (6) That he has a right to view and copy all petitions, reports, and  
 18 documents contained in the court file; and

19 (7) That respondent and his or her attorney have the right to notice of  
 20 the names and addresses of witnesses the petitioner intends to call at any  
 21 hearing or trial."

22  
 23 SECTION 9. Arkansas Code 20-47-213 is amended to read as follows:

24 "20-47-213. Initial Evaluation. ~~When performed and by whom~~  
 25 ~~Transportation to place of evaluation.~~

26 ~~(a) If the person is transported to a hospital or receiving facility or~~  
 27 ~~program, or to the office of a licensed physician of the State of Arkansas, or~~  
 28 ~~of the federal government, either salaried or self-employed, for purposes of~~  
 29 ~~initial evaluation and treatment, then the hospital or receiving facility or~~  
 30 ~~program, or physician may detain such person for initial evaluation and~~  
 31 ~~treatment, provided:~~

32 ~~(1) The person is immediately advised of his rights as provided~~  
 33 ~~in § 20-47-211; and~~

34 ~~(2) The person is determined by the treatment staff of the~~  
 35 ~~hospital or receiving facility or program, or by the physician, to be of~~  
 36 ~~danger to himself or others as defined in § 20-47-207; and~~

1 ~~(3) A hearing pursuant to § 20-47-209(a)(1) of this subchapter is~~  
 2 ~~held within the specified time period.~~

3 ~~(b)(1)~~ (a) If a physician is not immediately available for the initial  
 4 evaluation, the initial evaluation may be performed by an administrator's  
 5 designee, working under medical supervision and direction. In such cases, a  
 6 supervising physician shall be consulted by telephone before any decision is  
 7 made concerning the initial evaluation and treatment.

8 ~~(2)~~ (b) Every person admitted to a hospital or a receiving  
 9 facility or program under this provision shall be seen and evaluated  
 10 personally by a physician within twenty-four (24) hours of detention.

11 ~~(c) In all cases the evaluations required by the court for involuntary~~  
 12 ~~admission pursuant to § 20-47-214 shall be performed only by a physician~~  
 13 ~~licensed to practice in the State of Arkansas.~~

14 ~~(d)~~ (c) If it is determined at the initial hearing that the person  
 15 should be evaluated to determine the need for mental health services on an  
 16 involuntary basis, a law enforcement officer or family of such person, as the  
 17 court shall direct, shall transport the person to the place of evaluation.

18 ~~(e)~~ (d) Nothing herein shall prevent the person so detained from being  
 19 released sooner than the period specified in § 20-47-205 if, in the judgment  
 20 of the treatment staff of the hospital or of the receiving facility or of the  
 21 treating physician, the person does not require further mental health  
 22 treatment. The court shall be immediately advised in writing of such release  
 23 and shall dismiss the action."  
 24

25 SECTION 10. Arkansas Code 20-47-214 is amended to read as follows:

26 "20-47-214. Forty-five day involuntary admission - Hearing.

27 (a)(1) Within the period specified in § ~~20-47-205~~ 20-47-209(c)(3), a  
 28 hearing shall be held, unless continued due to good cause.

29 (2) Such hearing must be conducted in public, open to the news  
 30 media, unless the person sought to be involuntarily admitted shall request in  
 31 writing that the hearing be closed.

32 (3) All testimony must be taken under oath and preserved.

33 (4) All witnesses shall be subject to a penalty for perjury and  
 34 each witness who shall testify shall be instructed by the ~~hearing officer~~  
 35 probate judge as to the penalty for perjury prior to testifying.

36 ~~(b)(1)~~ Should any person be found guilty of giving false testimony that

1 results in a person's wrongful involuntary admission, he shall be liable for  
2 civil damages and subject to incarceration for not less than thirty (30) days.

3 (A) The court shall make a determination at that time whether  
4 clear and convincing evidence has been presented that the person sought to be  
5 involuntarily admitted is of danger to himself or to others as defined in §  
6 20-47-207(c)(1).

7 (B) If this burden of proof has been met, the court shall issue  
8 an order authorizing the hospital or receiving facility or program to detain  
9 the person for treatment for a maximum of forty-five (45) days.

10 (c) This section shall be construed to allow the person sought to be  
11 involuntarily admitted to request treatment under the least restrictive  
12 alternative appropriate setting.

13 (d) If a hearing pursuant to this section is not held within the period  
14 specified in § ~~20-47-205~~ 20-47-209(c)(3), the person shall be released.”

15  
16 SECTION 11. Arkansas Code 20-47-215 is amended to read as follows:

17 “20-47-215. Additional periods of involuntary admission - Petitions -  
18 Hearing.

19 (a) GENERALLY. (1) Additional one hundred eighty-day involuntary  
20 admission orders may be requested if, in the opinion of the treatment staff, a  
21 person involuntarily admitted continues to meet the criteria for involuntary  
22 admission.

23 (2) Additional one hundred eighty-day involuntary admission  
24 periods may be requested by the treatment staff of the hospital or receiving  
25 facility, or program when it is their opinion that the person needs continued  
26 treatment and supervision without which the person poses a likelihood of  
27 danger to himself or to others as defined in § 20-47-207(c)(2) if discharged.

28 (3) The treatment staff of the hospital or of the receiving  
29 facility or program may request additional involuntary admission orders as  
30 they are deemed necessary.

31 (b) PROCEDURE. (1) Any request for periods of additional involuntary  
32 admission pursuant to this section shall be made by a petition verified by the  
33 ~~psychiatrist~~ physician of the hospital or receiving facility or program  
34 treatment staff. Said petition shall set forth the facts and circumstances  
35 forming the basis for such request.

36 (2) Upon the filing of a petition for additional involuntary

1 admission, all rights enumerated in §§ 20-47-211 and 20-47-212 shall be  
2 applicable.

3 (c) Hearing. (1) A hearing on the petition seeking additional  
4 involuntary admission pursuant to this section must be held before the  
5 expiration of the period of involuntary admission, unless a continuance for  
6 good cause is granted.

7 (A) The hearing shall be open to the public and the news  
8 media, unless the person sought to be additionally involuntarily admitted  
9 shall request in writing that the hearing be closed.

10 (B) All written requests filed on behalf of the person  
11 sought to be additionally involuntarily admitted must be witnessed by the  
12 attorney who is representing the person.

13 (2) All testimony shall be recorded under oath and preserved.

14 (3) The need for additional involuntary admission shall be proven  
15 by ~~clear and convincing~~ a preponderance of the evidence. As provided in § 20-  
16 47-207(c)(2), and after the second request for an additional one hundred  
17 eighty (180) day involuntary admission, the hearing may not be waived by any  
18 party.

19 (d) New Original Petition. Nothing in this section shall prevent a new  
20 original petition from being filed subsequent to the release of a person  
21 involuntarily admitted pursuant to this subchapter."  
22

23 SECTION 12. Arkansas Code 20-47-218 (d) is amended to read as follows:

24 "(d)(1) A treatment plan, as defined in 20-47-202, will be submitted to  
25 the court for ~~approval~~ review at hearings held under §§ 20-47-214 and 20-47-  
26 215. The treatment plan is only a recommendation and is not subject to  
27 approval or disapproval by the court.

28 ~~(2) The treatment plan will be submitted by the person's~~  
29 ~~treatment staff of the hospital or the receiving facility or program to which~~  
30 ~~the person has been involuntarily admitted.~~ Any member of the treatment staff  
31 may offer testimony regarding the evaluation, treatment plan, and prognosis.

32 (3) The ~~approved~~ reviewed treatment plan shall be incorporated by  
33 reference as a part of the court's order of involuntary admission."  
34

35 SECTION 13. Arkansas Code 20-47-221 is amended to read as follows:

36 "20-47-221. Patient or client advocate.

1 (a) The ~~deputy~~ director shall designate a patient or client advocate  
2 for the ~~three~~ two state mental health facilities located in Little Rock, ~~and~~  
3 Benton, ~~and Jonesboro~~. The designated patient or client advocate in these  
4 facilities shall report directly to the ~~deputy~~ director.

5 (b) The administrator of each receiving facility or program shall  
6 designate a patient or client advocate for that facility or program who shall  
7 report directly to the administrator.

8 (c) The patient or client advocate job duties in this capacity shall  
9 consist primarily of:

10 (1) Insuring that each patient or client is aware of his rights;

11 (2) Investigating complaints of patients or clients;

12 (3) Assisting in training staff of the receiving facility or  
13 program regarding patient's rights;

14 (4) Acting as advocate on behalf of a patient or client who is  
15 unable to register a complaint because of mental or physical condition."  
16

17 SECTION 14. Arkansas Code 20-47-222 is amended to read as follows:

18 "20-47-222. Transfer and admission of residents who become ill in  
19 another state.

20 The ~~deputy~~ director or designee shall have authority to authorize the  
21 transfer and admission to a receiving facility or program of any person who is  
22 a legal resident of the state and who may become mentally ill while a  
23 transient in another state, pursuant to The Interstate Compact on Mental  
24 Health, § 20-50-101 et seq."  
25

26 SECTION 15. Arkansas Code 20-47-226 is amended to read as follows:

27 "20-47-226. Forms.

28 The Director of the Administrative Office of the Courts and the  
29 prosecutor coordinator shall jointly prescribe all other forms reasonably  
30 necessary to carry out this subchapter, provided that the ~~deputy~~ director or  
31 designee may prescribe forms pertaining to preadmission history to accompany  
32 the person when presented for admission, to be waived in dire emergencies;  
33 said ~~deputy~~ director or designee shall assist the Director of the  
34 Administrative Office of the Courts in prescribing forms for the required  
35 medical certificates. Substantial adherence to the prescribed forms will  
36 suffice in any instance."

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SECTION 16. Arkansas Code 20-47-228 is amended to read as follows:

"20-47-228. Assurance of compliance.

(a) To assure compliance under this subchapter, the Division of Mental Health Services of the Department of Human Services, through its authorized agents, may visit or investigate any state mental health system program or facility to which persons are voluntarily or involuntarily admitted under this subchapter.

(b) The Division of Mental Health Services of the Department of Human Services shall by July 1 of each year designate receiving facilities and programs within prescribed geographic areas of the state for purposes of voluntary or involuntary admissions ~~or involuntary commitments~~ under this subchapter and establish ongoing mechanisms for review and refinement of the state mental health system."

SECTION 17. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 18. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

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

/s/ Webb