

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.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/4/05
A Bill

HOUSE BILL 2207

5 By: Representative Roebuck
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8 **For An Act To Be Entitled**

9 AN ACT TO AMEND DISPOSITIONS IN JUVENILE CASES;
10 AND FOR OTHER PURPOSES.
11

12 **Subtitle**

13 TO AMEND DISPOSITIONS IN JUVENILE CASES.
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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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18 SECTION 1. Arkansas Code § 9-27-331, regarding the disposition of
19 juvenile delinquency cases, is amended to add an additional subsection to
20 read as follows:

21 (k)(1)(A) Except in the case of emergency crisis intervention, before
22 ordering a juvenile into a residential or inpatient facility, the court
23 shall:

24 (i) Refer the juvenile for assessment by the
25 Department of Human Services or the department's designee to identify mental
26 health services, if any, that are in the best interest of the juvenile; and

27 (ii) Determine the parent's, guardian's, or
28 custodian's, other than the State of Arkansas, ability to pay support, some
29 or all of which shall be payable for any court-ordered services.

30 (B)(i) If the court determines that emergency crisis
31 intervention is necessary to prevent imminent serious harm to the juvenile,
32 the court may order a juvenile into a residential or inpatient facility
33 pending receipt and prompt consideration of the assessment required by this
34 subdivision (k).

35 (ii) Each completed assessment shall be admitted
36 into evidence and shall be rebuttably presumed to establish the mental health



1 services that are in the juvenile's best interest;

2 (iii) The court shall determine what services should
3 be ordered.

4 (2) If a court orders a juvenile into an in-state residential or
5 inpatient facility for care and treatment, including psychiatric treatment,
6 the Department of Education, public school districts, or open-enrollment
7 charter schools shall not be liable to pay or be responsible for education or
8 other costs, nor shall they be subject to any order to pay for educational or
9 other costs unless:

10 (A) Payment is required by the Individuals with
11 Disabilities Education Act, 20 U.S.C. § 1400 et seq., as in effect on
12 February 1, 2005; or

13 (B)(i) The Department of Education authorizes public
14 payment for educational costs based on a determination that the educational
15 program and facilities are appropriate for the juvenile and the Department Of
16 Education has approved the facility's educational program.

17 (ii) Each authorization must precede the placement
18 and is void if the placement is not made within five (5) business days of the
19 date of authorization.

20 (3) If a court orders a juvenile into an out-of-state
21 residential or inpatient facility for care and treatment, including
22 psychiatric treatment, the Department of Education, the public school
23 districts, or the open-enrollment charter schools shall not be liable to pay
24 or be responsible for education or other costs, nor shall they be subject to
25 any order to pay for educational or other costs unless:

26 (A) Payment is required by the Individuals with
27 Disabilities Education Act, 20 U.S.C. § 1400 et seq., as in effect on
28 February 1, 2005; and

29 (B) The Department of Education authorizes public payment
30 for educational costs based on a determination that the educational program
31 and facilities are appropriate for the juvenile and the Department Of
32 Education has approved the facility's educational program. Each
33 authorization must precede the placement, and is void if the placement is not
34 made within five (5) business days of the date of authorization.

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36 SECTION 2. Arkansas Code § 9-27-333, regarding the disposition of

1 families in need of services cases, is amended to add an additional
2 subsection to read as follows:

3 (h)(1)(A) Except in the case of emergency crisis intervention, before
4 ordering a juvenile into a residential or inpatient facility the court shall:

5 (i) Refer the juvenile for assessment by the
6 Department of Human Services or the department's designee to identify mental
7 health services, if any, that are in the best interest of the juvenile; and

8 (ii) Determine the parent's, guardian's, or
9 custodian's, other than the State of Arkansas, ability to pay support, some
10 or all of which shall be payable for any court-ordered services.

11 (B)(i) If the court determines that emergency crisis
12 intervention is necessary to prevent imminent serious harm to the juvenile,
13 the court may order a juvenile into a residential or inpatient facility
14 pending receipt and prompt consideration of the assessment required under
15 this subsection.

16 (ii) Each completed assessment shall be admitted
17 into evidence, and shall be rebuttably presumed to establish the mental
18 health services that are in the juvenile's best interest;

19 (iii) The court shall determine what services should
20 be ordered.

21 (2) If a court orders a juvenile into an in-state residential or
22 inpatient facility for care and treatment, including psychiatric treatment,
23 the Department of Education, public school districts, or open-enrollment
24 charter schools shall not be liable to pay or be responsible for education or
25 other costs, nor shall they be subject to any order to pay for educational or
26 other costs unless:

27 (A) Payment is required by the Individuals with
28 Disabilities Education Act, 20 U.S.C. § 1400 et seq., as in effect on
29 February 1, 2005; or

30 (B)(i) The Department of Education authorizes public
31 payment for educational costs based on a determination that the educational
32 program and facilities are appropriate for the juvenile and the Department of
33 Education has approved the facility's educational program.

34 (ii) Each authorization must precede the placement,
35 and is void if the placement is not made within five (5) business days of the
36 date of authorization.

1 (3) If a court orders a juvenile into an out-of-state
2 residential or inpatient facility for care and treatment, including
3 psychiatric treatment, the Department of Education, public school districts,
4 or open-enrollment charter schools shall not be liable to pay or be
5 responsible for education or other costs, nor shall they be subject to any
6 order to pay for educational or other costs unless:

7 (A) Payment is required by the Individuals with
8 Disabilities Education Act, 20 U.S.C. § 1400 et seq., as in effect on
9 February 1, 2005; and

10 (B) The Department of Education authorizes public payment
11 for educational costs based on a determination that the educational program
12 and facilities are appropriate for the juvenile and the Department of
13 Education has approved the facility's educational program. Each
14 authorization must precede the placement, and is void if the placement is not
15 made within five (5) business days of the date of authorization.

16
17 SECTION 3. Arkansas Code § 9-27-335, regarding the disposition of
18 dependent neglect cases, is amended to add an additional subsection to read
19 as follows:

20 (g)(1)(A) Except in the case of emergency crisis intervention, before
21 ordering a juvenile into a residential or inpatient facility the court shall:

22 (i) Refer the juvenile for assessment by the
23 Department of Human Services or the department's designee to identify mental
24 health services, if any, that are in the best interest of the juvenile; and

25 (ii) Determine the parent's, guardian's, or
26 custodian's, other than the State of Arkansas, ability to pay support, some
27 or all of which shall be payable for any court-ordered services.

28 (B)(i) If the court determines that emergency crisis
29 intervention is necessary to prevent imminent serious harm to the juvenile,
30 the court may order a juvenile into a residential or inpatient facility
31 pending receipt and prompt consideration of the assessment required by this
32 subsection.

33 (ii) Each completed assessment shall be admitted
34 into evidence and shall be rebuttably presumed to establish the mental health
35 services that are in the juvenile's best interest;

36 (iii) The court shall determine what services should

1 be ordered.

2 (2) If a court orders a juvenile into an in-state residential or
3 inpatient facility for care and treatment, including psychiatric treatment,
4 the Department of Education, public school districts, or open-enrollment
5 charter schools shall not be liable to pay or be responsible for education or
6 other costs, nor shall they be subject to any order to pay for educational or
7 other costs unless:

8 (A) Payment is required by the Individuals with
9 Disabilities Education Act, 20 U.S.C. § 1400 et seq., as in effect on
10 February 1, 2005; or

11 (B)(i) The Department of Education authorizes public
12 payment for educational costs based on a determination that the educational
13 program and facilities are appropriate for the juvenile and the Department of
14 Education has approved the facility's educational program.

15 (ii) Each authorization must precede the placement
16 and is void if the placement is not made within five (5) business days of the
17 date of authorization.

18 (3) If a court orders a juvenile into an out-of-state
19 residential or inpatient facility for care and treatment, including
20 psychiatric treatment, the Department of Education, public school districts,
21 or open-enrollment charter schools shall not be liable to pay or be
22 responsible for education or other costs, nor shall they be subject to any
23 order to pay for educational or other costs unless:

24 (A) Payment is required by the Individuals with
25 Disabilities Education Act, 20 U.S.C. § 1400 et seq., as in effect on
26 February 1, 2005; and

27 (B) The Department of Education authorizes public payment
28 for educational costs based on a determination that the educational program
29 and facilities are appropriate for the juvenile and the Department of
30 Education has approved the facility's educational program. Each
31 authorization must precede the placement, and is void if the placement is not
32 made within five (5) business days of the date of authorization.

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34 /s/ Roebuck
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