

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 as provided under subdivision (k)(1)(B) of this
22 section, before a court orders a juvenile into an out-of-state residential or
23 inpatient facility, the court 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) If the court determines that the juvenile poses an
31 imminent threat of harm to himself or herself or others and services are not
32 available in the State of Arkansas, then the requirements of this subsection
33 (k) shall not apply.

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



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

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

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

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

16 (ii) Each program authorization must precede the
17 placement, and the placement is void if the program is not authorized prior
18 to the placement.

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

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

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

34 (3) The Department of Human Services shall not be liable for
35 educational costs under any circumstances.

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1 SECTION 2. Arkansas Code § 9-27-333, regarding the disposition of
2 families in need of services cases, is amended to add an additional
3 subsection to read as follows:

4 (h)(1)(A) Except as provided under subdivision (h)(1)(B) of this
5 section, before a court orders a juvenile into an out-of-state residential or
6 inpatient facility, the court shall:

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

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

13 (B) If the court determines that the juvenile poses an
14 imminent threat of harm to himself or herself or others and services are not
15 available in the State of Arkansas, then the requirements of this subsection
16 (h) shall not apply.

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

20 (3) The court shall determine what services should
21 be ordered.

22 (i)(1) If a court orders a juvenile into an in-state residential
23 or inpatient facility for care and treatment, including psychiatric
24 treatment, the Department of Education, public school districts, or open-
25 enrollment charter schools shall not be liable to pay or be responsible for
26 education or other costs, nor shall they be subject to any order to pay for
27 educational or other costs unless:

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

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

35 (ii) Each program authorization must precede the
36 placement, and the placement is void if the program is not authorized prior

1 to the placement.

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

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

17 (3) The Department of Human Services shall not be liable for
18 educational costs under any circumstances.

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

22 (g)(1)(A) Except as provided under subdivision (g)(1)(B) of this
23 section, before a court orders a juvenile into an out-of-state residential or
24 inpatient facility, the court shall:

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

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

31 (B) If the court determines that the juvenile poses an
32 imminent threat of harm to himself or herself or others and services are not
33 available in the State of Arkansas, then the requirements of this subsection
34 (g) shall not apply.

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

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

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

4 (h)(1) If a court orders a juvenile into an in-state residential
5 or inpatient facility for care and treatment, including psychiatric
6 treatment, the Department of Education, public school districts, or open-
7 enrollment charter schools shall not be liable to pay or be responsible for
8 education or other costs, nor shall they be subject to any order to pay for
9 educational or 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 program authorization must precede the
18 placement, and the placement is void if the program is not authorized prior
19 to the placement.

20 (2) 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, public school districts,
23 or open-enrollment charter schools shall not be liable to pay or be
24 responsible for education or other costs, nor shall they be subject to any
25 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.

35 (3) The Department of Human Services shall not be liable for
36 educational costs under any circumstances.

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/s/ Roebuck