

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 H3/22/05

# A Bill

HOUSE BILL 2207

5 By: Representative Roebuck  
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7

## For An Act To Be Entitled

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

### Subtitle

12 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*