

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 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 2376

5 By: Representative E. Brown
6
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For An Act To Be Entitled

9 AN ACT TO ENSURE THE SAFETY OF PATIENTS AT THE
10 ARKANSAS STATE HOSPITAL, HEALTH CARE PROVIDERS,
11 LAW ENFORCEMENT OFFICERS, AND COURT PERSONNEL;
12 AND FOR OTHER PURPOSES.
13

Subtitle

14 AN ACT TO ENSURE THE SAFETY OF PATIENTS
15 AT THE ARKANSAS STATE HOSPITAL, HEALTH
16 CARE PROVIDERS, LAW ENFORCEMENT
17 OFFICERS, AND COURT PERSONNEL.
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20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 5-2-301 is amended to add an additional
24 subdivision is amended to read as follows:

25 5-2-301. Definitions.

26 As used in this subchapter:

27 (1) "Appropriate facility" means any facility within or without
28 this state to which a defendant is eligible for admission and treatment for
29 mental disease or defect;

30 (2) "Capacity of the defendant to have the culpable mental
31 state" means a defendant's ability to have the culpable mental state
32 necessary to establish an element of the offense charged, as defined in § 5-
33 2-202;

34 (3) "Compliance monitor" means either a social service
35 representative or licensed social worker, or both, employed by the Department
36 of Health and Human Services for the purpose of, including, but not limited



1 to:

2 (A) Verifying that a person conditionally released
 3 pursuant to a provision of this subchapter is in compliance with the
 4 conditions for release;

5 (B) Providing social service assistance to a person
 6 conditionally released pursuant to a provision of this subchapter; and

7 (C) Reporting compliance with the conditions for release
 8 or lack of compliance with the conditions for release to the appropriate
 9 circuit court;

10 (4) "Designated receiving facility or program" means an
 11 inpatient or outpatient treatment facility or program that is designated
 12 within each geographic area of the state by the Director of the Division of
 13 Behavioral Health of the Department of Health and Human Services to accept
 14 the responsibility for the care, custody, and treatment of a person
 15 involuntarily admitted to the state mental health system;

16 (5)(A) "Mental disease or defect" means a:

17 (i) Substantial disorder of thought, mood,
 18 perception, orientation, or memory that grossly impairs judgment, behavior,
 19 capacity to recognize reality, or ability to meet the ordinary demands of
 20 life;

21 (ii) State of significantly subaverage general
 22 intellectual functioning existing concurrently with a defect of adaptive
 23 behavior that developed during the developmental period; or

24 (iii) Significant impairment in cognitive
 25 functioning acquired as a direct consequence of a brain injury.

26 (B) As used in the Arkansas Criminal Code, "mental disease
 27 or defect" does not include an abnormality manifested only by:

28 (i) Repeated criminal or otherwise antisocial
 29 conduct;

30 (ii) Continuous or noncontinuous periods of
 31 intoxication, as defined in § 5-2-207(b)(1), caused by a substance such as
 32 alcohol or a drug;

33 (iii) Dependence upon or addiction to any substance
 34 such as alcohol or a drug;

35 (6) "Prescribed regimen of medical, psychiatric, or
 36 psychological care or treatment" means to care or treatment for a mental

1 illness, as defined in § 20-47-202;

2 (7) "Qualified psychiatrist" means a licensed psychiatrist who
 3 has successfully completed either a post-residency fellowship in forensic
 4 psychiatry accredited by the American Board of Psychiatry and Neurology or a
 5 forensic certification course approved by the department, and who is
 6 currently approved by the department to administer a forensic examination as
 7 defined in this subchapter;

8 (8) "Qualified psychologist" means a licensed psychologist who
 9 has received a post-doctoral diploma in forensic psychology accredited by the
 10 American Board of Professional Psychology or successfully completed a
 11 forensic certification course approved by the department, and who is
 12 currently approved by the department to administer a forensic examination as
 13 defined in this subchapter; ~~and~~

14 (9)(A) "Restraint" means any manual method, physical or
 15 mechanical device, material, or equipment that immobilizes a person or
 16 reduces the ability of a person to move his or her arms, legs, body, or head
 17 freely.

18 (B) "Restraint" does not include devices such as
 19 orthopedically prescribed devices, surgical dressings or bandages, protective
 20 helmets, or other methods that involve the physical holding of a person for
 21 the purpose of protecting the person from falling or to permit the person to
 22 participate in activities without the risk of physical harm to himself or
 23 herself; and

24 ~~(9)~~(10) "State mental health system" means the Arkansas State
 25 Hospital and any other facility or program certified by the Division of
 26 Behavioral Health of the Department of Health and Human Services.

27
 28 SECTION 2. Arkansas Code Title 5, Chapter 2, Subchapter 3 is amended
 29 to add an additional section to read as follows:

30 5-2-326. Restraint of an Arkansas State Hospital patient.

31 (a) If necessary for security, an Arkansas State Hospital patient
 32 shall be physically restrained with a restraint while being transported to
 33 locations away from hospital grounds or to and from any court appearance.

34 (b) A patient shall not be physically restrained with a restraint if
 35 the restraint is medically contraindicated.

36 (c) The restraint shall be implemented in accordance with safe and

1 appropriate restraint techniques as determined by hospital policy.

2 (d) The restraint used shall be the least restrictive type or
 3 technique necessary to effectively protect the patient, staff members, or
 4 others from harm.

5 (e) The restraint shall not be used as a means of coercion,
 6 discipline, convenience, or retaliation by staff.

7
 8 SECTION 3. Arkansas Code § 20-47-202, concerning definitions for the
 9 treatment of the mentally ill, is amended to add an additional subdivision to
 10 read as follows:

11 (18)(A) "Restraint" means any manual method, physical or
 12 mechanical device, material, or equipment that immobilizes a person or
 13 reduces the ability of a person to move his or her arms, legs, body, or head
 14 freely.

15 (B) "Restraint" does not include devices such as
 16 orthopedically prescribed devices, surgical dressings or bandages, protective
 17 helmets, or other methods that involve the physical holding of a person for
 18 the purpose of protecting the person from falling or to permit the person to
 19 participate in activities without the risk of physical harm to himself or
 20 herself.

21
 22 SECTION 4. Arkansas Code Title 20, Chapter 47, Subchapter 2 is amended
 23 to add an additional section to read as follows:

24 20-47-229. Restraint of an Arkansas State Hospital patient.

25 (a) If necessary for security, an Arkansas State Hospital patient
 26 shall be physically restrained with a restraint while being transported to
 27 locations away from hospital grounds or to and from any court appearance.

28 (b) A patient shall not be physically restrained with a restraint if
 29 the restraint is medically contraindicated.

30 (c) The restraint shall be implemented in accordance with safe and
 31 appropriate restraint and techniques as determined hospital policy.

32 (d) The restraint used shall be the least restrictive type or
 33 technique necessary to effectively protect the patient, staff members, or
 34 others from harm.

35 (e) The restraint shall not be used as a means of coercion,
 36 discipline, convenience, or retaliation by staff.