

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.

State of Arkansas
86th General Assembly
Regular Session, 2007

As Engrossed: H3/21/07

A Bill

HOUSE BILL 2721

By: Representative Medley

For An Act To Be Entitled

AN ACT TO DIRECT THE DIVISION OF BEHAVIORAL
HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN
SERVICES TO CREATE STANDARD PROTOCOLS, SUBMISSION
AND EVALUATION OF REPORTS, AND MONITORING OF
COMPLIANCE; AND FOR OTHER PURPOSES.

Subtitle

DIRECT THE DIVISION OF BEHAVIORAL HEALTH
OF THE DEPARTMENT OF HEALTH AND HUMAN
SERVICES TO CREATE STANDARD PROTOCOLS,
SUBMISSION AND EVALUATION OF REPORTS,
AND MONITORING OF COMPLIANCE.

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

SECTION 1. Arkansas Code Title 20, Chapter 47 is amended to add an additional subchapter to read as follows:

20-47-601. Legislative findings.

The General Assembly finds that:

(1) There is increasing pressure on county jails to provide or find appropriate care for detainees and jail inmates who have mental illnesses;

(2) There are an inadequate number of acute inpatient psychiatric beds and, in some areas, limited follow-up treatment options available to adults with mental illness who have been arrested;

(3) Arkansas ranks forty-ninth in the number of state-operated, psychiatric beds per thousand population;



1 (4) The only non-profit psychiatric hospital beds for adults
2 with mental illness are located in Pulaski Count and Jefferson County;

3 (5) In 2005, there were sixty-eight (68) counties in Arkansas
4 that had no acute inpatient psychiatric beds;

5 (6) According to the United States Department of Justice, in
6 2000 only sixteen percent (16%) of jail inmates reported either a mental
7 condition or emotional condition or an overnight stay in a mental hospital or
8 program;

9 (7) In the year 2006, more than one half (1/2) of all prison and
10 state inmates reported mental health problems, including symptoms of major
11 depression, mania, and psychotic disorder;

12 (8) It is estimated that seventy percent (70%) of jail inmates
13 with mental illnesses are incarcerated for nonviolent offenses;

14 (9) Jail diversion programs, including mental health courts,
15 have demonstrated that where jail diversion programs are part of a system,
16 jail diversion programs can help persons with mental illnesses arrested by a
17 law enforcement officer and can reduce the likelihood of that person's re-
18 entry into the law enforcement systems;

19 (10) A survey of county judges and chiefs of police in Arkansas
20 reveals a recognition that there are gaps in the system that they cannot
21 address by themselves;

22 (11) Law enforcement officers and jail personnel would benefit
23 from training specifically to recognize promptly a person who may have a
24 mental illness and to respond to that person in an appropriate manner;

25 (12) The counties and cities of Arkansas do not have sufficient
26 funding to absorb an unfunded mandate to provide training and treatment in
27 the jails, particularly as the training relates to the administration of
28 prescribed medication;

29 (13) There are grant funds available that address some of these
30 challenges that can be applied for if persons skilled in grant writing
31 already employed by the state are assigned to obtaining the funds to support
32 the purpose of this subchapter; and

33 (14) The absence of jail services required by detainees and
34 inmates who have a mental illness has resulted in litigation and threats of
35 litigation, that might result in limitation of the state's sovereignty and
36 higher costs of meeting constitutional standards.

20-47-602. Definitions.

As used in this subchapter:

(1) "Community mental health centers" means those private non-profit organizations certified by the Division of Behavioral Health Services of the Department of Health and Human Services under § 20-47-202 as community mental health centers and contracted to perform designated public mental health services in the respective catchment areas of the state;

(2) "Inmate with mental illness" means a jail inmate who, after being assessed by a person qualified by licensure to conduct an assessment, meets the criteria for serious mental illness or is in danger of harm to self or to others;

(3) "Jail inmate" means a natural person who is in the custody of law enforcement authorities within the confines of a county jail;

(4) "Persons with mental illness" means a person who appears to be a danger to himself or herself or to others or to need mental health evaluation for treatment and may include an individual detained by a law enforcement officer;

(5) "Protocol" means standardized outlines of the steps to be taken by law enforcement officers, jails, community mental health centers or regional secure psychiatric facilities to handle the situation of each person with mental illness arrested by a law enforcement officer.

20-47-603. Protocols and accountability.

(a) Each county jail shall prepare and may use during the intake process a standard checklist, including behavioral indicators of mental health problems.

(b) If a checklist is used, the checklist shall be a permanent part of the jail inmate's record and shall record all mental health efforts that should be taken in relation to the jail inmate.

(c) Each county jail shall adapt the standard protocols to assist law enforcement personnel and mental health personnel as follows:

(1) A protocol that sets forth the steps that should be taken initially for all arrested persons to determine their mental health status, including physical indications that may affect mental health status;

(2)(A) A protocol to be used for those persons who, based on the

1 results of the protocol drafted under subdivision (c)(1) of this section, may
2 be in need of psychiatric or co-occurring condition treatment;

3 (B) Under the protocol drafted under subdivision (c)(2)(A)
4 of this section, only licensed mental health professionals shall be
5 responsible for comprehensive screening and assessment subsequent to a
6 finding that the arrested person is in need of psychiatric or co-occurring
7 condition treatment.

8 (C) Ordinarily the mental health professionals under
9 subdivision (c)(2)(B) of this section should be supplied by the Community
10 Mental Health Center for the catchment area in which the jail is located.

11 (3)(A) A protocol for case management for jail inmates with a
12 mental illness who are referred to a community mental health center.

13 (B) The protocol drafted under subdivision (3)(A) of this
14 section shall outline the responsibilities of each party and the steps to be
15 followed in providing treatment to the referred inmate.

16 (C) The protocol drafted under subdivision (3)(A) of this
17 section shall include a crisis plan for periods beyond the normal work day or
18 work week.

19 (d)(1) A standard model for the checklist to be prepared under this
20 section and a standard model for the protocols to be drafted under this
21 section shall be prepared by a committee to be convened by the Division of
22 Behavioral Health Services of the Department of Health and Human Services
23 within six (6) months after the effective date of this subchapter.

24 (2) The committee convened under subdivision (d)(1) of this
25 section shall consist of a representative designated by each of the following
26 agencies or departments:

27 (A) Arkansas Association of Chiefs of Police;

28 (B) Arkansas Association of County Judges;

29 (C) Arkansas Judicial Council;

30 (D) Arkansas Municipal League;

31 (E) Arkansas Sheriffs' Association;

32 (F) Community mental health centers;

33 (G) Criminal Justice Institute of the Arkansas University
34 System;

35 (H) Department of Community Correction;

36 (I) Disability Rights Center;

1 (J) Division of Behavioral Health;

2 (K) Office of the Prosecutor Coordinator;

3 (L) Department of Psychiatry of the University of Arkansas
4 for Medical Sciences; and

5 (M) Arkansas Public Defender Commission.

6 (3) The committee shall submit the completed standard protocols
7 and the standard checklist required under subdivision (d)(1) of this section
8 to the Division of Behavioral Health and to the Arkansas Judicial Council for
9 approval.

10 (4) The Division of Behavioral Health shall provide copies of
11 the standard protocols and the standard checklist to sheriffs, chiefs of
12 police and county judges shall post the standard protocols and the standard
13 checklist on a public website.

14 (e) The committee convened under subdivision (d)(1) of this section
15 shall recommend:

16 (1) Establishment of the needs for acute mental health beds
17 throughout the state; and

18 (2) Provision of appropriate funding where needed for
19 construction, operations, renovation, and equipment for meeting the state's
20 needs for acute mental health beds to the extent such funds are appropriated
21 for the purpose.

22 (f) The Division of Behavioral Health shall develop a standardized
23 report related to all aspects of the implementation of this subchapter.

24 (g) Each community mental health center shall complete and submit
25 quarterly to the Division of Behavioral Health the report developed under
26 subsection (e) of this section.

27 (h) The Division of Behavioral Health shall publish annually within
28 sixty (60) days after the end of the state's fiscal year a compilation of the
29 quarterly reports to be made available to the public and, if necessary, to
30 serve as the basis for action to end.

31
32 20-47-604. Conditional effectiveness.

33 Unless sufficient appropriations are provided for the purposes of this
34 subchapter, the parties have no new obligations under this subchapter.

35
36 /s/ Medley