

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

As Engrossed: S2/7/07
A Bill

SENATE BILL 191

5 By: Senators Steele, Faris
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO AUTHORIZE THE GOVERNOR TO CREATE THE
10 DEPARTMENT OF HEALTH; TO AUTHORIZE THE GOVERNOR
11 TO TRANSFER THE POWERS, DUTIES, APPROPRIATIONS,
12 AND OPERATIONS OF THE DIVISION OF HEALTH OF THE
13 DEPARTMENT OF HEALTH AND HUMAN SERVICES TO THE
14 DEPARTMENT OF HEALTH; AND FOR OTHER PURPOSES.
15

16 **Subtitle**

17 TO AUTHORIZE THE GOVERNOR TO CREATE THE
18 DEPARTMENT OF HEALTH AND TO TRANSFER THE
19 POWERS, DUTIES, APPROPRIATIONS AND
20 OPERATIONS OF THE DEPARTMENT OF HEALTH
21 OF THE DEPARTMENT OF HEALTH AND HUMAN
22 SERVICES TO THE DEPARTMENT OF HEALTH.
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Creation of the Department of Health.

28 (a) The Governor may order the creation of the Department of Health
29 through the separation of the Division of Health of the Department of Health
30 and Human Services from the Department of Health and Human Services.

31 (b) If the Governor creates the Department of Health under subsection
32 (a) of this section, the Arkansas Code Revision Commission shall replace all
33 references in the Arkansas Code to the:

34 (1) "Division of Health of the Department of Health and Human
35 Services" or "Division of Health" with "Department of Health"; and

36 (2) "Department of Health and Human Services" with "Department



1 of Human Services”.

2 (c) Sections 2 through 12 of this act become effective only if the
3 Governor creates the Department of Health under subsection (a) of this
4 section.

5
6 SECTION 2. Transfer of the Division of Health of the Department of
7 Health and Human Services out of the Department of Health and Human Services.

8 (a)(1) Effective sixty (60) days after the Governor creates the
9 Department of Health under this act, the Division of Health of the Department
10 of Health and Human Services is transferred to the Department of Health.

11 (2) All authority, powers, duties, and functions as established
12 by law for the Division of Health of the Department of Health and Human
13 Services, including all purchasing, budgeting, fiscal, accounting, human
14 resources, payroll, legal, information systems, maintenance, program support,
15 administrative support, and other management functions are transferred to the
16 Department of Health.

17 (3)(A) All records, personnel, property, unexpended balances of
18 appropriations, allocations, or other funds of the Division of Health of the
19 Department of Health and Human Services are transferred to the Department of
20 Health.

21 (B)(i) All powers, duties, and functions, including
22 without limitation, rulemaking, regulation, and licensing, promulgation of
23 rules, rates, regulations, and standards, and the rendering of findings,
24 orders, and adjudications as established by law for the Division of Health of
25 the Department of Health and Human Services are transferred to the Chief
26 Health Officer for the State of Arkansas, except as specified in this act.

27 (ii) All powers, duties, and functions, including
28 without limitation, rulemaking, regulation, and licensing, promulgation of
29 rules, rates, regulations, and standards, all budgetary responsibilities, and
30 the rendering of findings, orders, and adjudications as established by law
31 for the Breast Cancer Control Program or other transferred entities within
32 the Division of Health of the Department of Health and Human Services shall
33 be retained as they were before the implementation of this act.

34 (b) This act does not increase the authority or powers of the Chief
35 Health Officer except as specifically defined in this act.

36 (c) The Governor shall appoint and employ the Chief Health Officer.

1
2 SECTION 3. Transfer of the State Board of Health to the Department of
3 Health.

4 (a) Effective sixty (60) days after the Governor creates the
5 Department of Health under this act, the State Board of Health is transferred
6 to the Department of Health.

7 (b) The State Board of Health shall receive administrative support
8 from the Department of Health and shall retain the same powers, authorities,
9 duties, and functions prescribed by law as it had before the transfer and
10 shall have all rule- and regulation-making authority prescribed by law to the
11 Division of Health of the Department of Health and Human Services before the
12 transfer, except as provided for in this act, including, without limitation:

13 (1) Rule making, regulation, licensing, and registration;

14 (2) The promulgation of rules, rates, regulations, and
15 standards;

16 (3) Examinations, investigations, inspections, and reviews; and

17 (4) The rendering of findings, orders, and adjudications.

18
19 SECTION 4. Arkansas Code §§ 20-7-102 and 20-7-103 are amended to read
20 as follows:

21 20-7-102. Members - Appointment.

22 (a) The State Board of Health shall consist of ~~twenty-three (23)~~
23 twenty-two (22) members, to be appointed by the Governor as follows:

24 (1)(A) Seven (7) members of the board shall be licensed medical
25 doctors of good professional standing, to be appointed by the Governor as
26 follows:

27 (i) One (1) member shall be appointed from each of
28 the four (4) congressional districts of this state as established by § 7-2-
29 101 et seq.; and

30 (ii) Three (3) members shall be appointed from the
31 state at large from a list of not fewer than three (3) names presented for
32 each position by the Arkansas Medical Society.

33 (B) Notwithstanding the provisions of subdivision
34 (a)(1)(A) of this section, at least one (1) of the positions allocated for
35 licensed medical doctors shall be an osteopathic physician appointed from a
36 list of not fewer than three (3) names presented to the Governor by the

1 Arkansas Osteopathic Medical Association from the state at large;

2 (2) One (1) member shall be a regularly licensed, registered,
3 and practicing dentist who has at least seven (7) years' experience in the
4 practice of his or her profession in this state. This member shall be
5 appointed from a list of not fewer than three (3) names presented by the
6 Arkansas State Dental Association;

7 (3) One (1) member shall be a registered professional engineer
8 who has at least seven (7) years' experience in the practice of his or her
9 profession in this state. This member shall be appointed from a list of not
10 fewer than three (3) names presented by the Arkansas Society of Professional
11 Engineers;

12 (4) One (1) member shall be a regularly licensed professional
13 nurse who has been a resident of the state for at least seven (7) years
14 preceding the appointment and who has at least a bachelor's degree and five
15 (5) years' nursing experience in the state. This member shall be appointed
16 from a list of not more than three (3) names presented by the Arkansas State
17 Nurses Association;

18 (5) One (1) member shall be a regularly licensed pharmacist who
19 has been actively engaged in the practice of pharmacy for at least seven (7)
20 years preceding his or her appointment. This member shall be appointed from a
21 list of not fewer than three (3) names presented by the Arkansas Pharmacists
22 Association;

23 (6) One (1) member shall be a regularly licensed veterinarian
24 who has been actively engaged in the practice of veterinary medicine for at
25 least seven (7) years preceding his or her appointment. This member shall be
26 appointed from a list of not fewer than three (3) names presented by the
27 Arkansas Veterinary Medical Association;

28 (7) One (1) member shall be a registered sanitarian who has at
29 least seven (7) years' experience in the practice of his or her profession
30 preceding his or her appointment. This member shall be appointed from a list
31 of not fewer than three (3) names presented by the Arkansas State Board of
32 Sanitarians;

33 (8) One (1) member shall be a hospital administrator who has at
34 least seven (7) years' experience in the practice of his or her profession in
35 Arkansas. This member shall be appointed from a list of not fewer than three
36 (3) names presented by the Arkansas Hospital Association;

1 (9) One (1) member shall be a regularly licensed, registered,
2 and practicing optometrist who has at least seven (7) years' experience in
3 the practice of his or her profession in this state. This member shall be
4 appointed from a list of not fewer than three (3) names presented by the
5 Arkansas Optometric Association;

6 (10) One (1) member shall be a regularly licensed and practicing
7 chiropractor. This member shall be appointed from a list of not fewer than
8 three (3) names submitted by the Arkansas Chiropractic Association or the
9 Arkansas Chiropractic Society;

10 (11) One (1) member shall be a restaurant operator who has owned
11 or operated a restaurant for a minimum of five (5) years. This member shall
12 be appointed by the Governor from a list of three (3) names submitted by the
13 Arkansas Hospitality Association;

14 (12) One (1) member shall be a consumer representative who has
15 an interest in public health. This member shall be appointed by the Governor
16 from the state at large;

17 (13) One (1) member shall be more than sixty (60) years old and
18 represent the elderly. This person shall not be actively engaged in or
19 retired from any occupation, profession, or industry to be regulated by the
20 board. The member shall be appointed by the Governor from the state at large
21 and be subject to confirmation by the Senate;

22 (14) One (1) member shall be a licensed doctor of podiatric
23 medicine of good professional standing who has at least seven (7) years'
24 experience in the practice of the profession in this state. The member shall
25 be appointed from a list of not fewer than three (3) names presented by the
26 Arkansas Podiatric Medical Association;

27 (15) One (1) member shall be a member of the Arkansas Public
28 Health Association. The member shall be appointed by the Governor from a list
29 of three (3) names submitted by the Arkansas Public Health Association; and

30 (16) One (1) member shall be a licensed medical doctor of good
31 professional standing who shall be appointed from a rural county that
32 contains a medically underserved population in the state; and.

33 ~~(17) One (1) member shall be the Director of the Department of~~
34 ~~Health and Human Services or his or her designee.~~

35 (b) Each of the members of the board so appointed shall take the oath
36 prescribed by the Arkansas Constitution for state officers and shall be

1 commissioned by the Governor in the same manner as other state officials.

2
3 20-7-103. Members - Officers.

4 (a) The members of the State Board of Health shall elect one (1) of
5 the members as president. ~~However, the Director of the Department of Health~~
6 ~~and Human Services or his or her designee on the board shall not serve as the~~
7 ~~President of the State Board of Health.~~

8 (b)(1) With approval of the board, the Governor shall appoint a Chief
9 Health Officer for the State of Arkansas who shall not be a current sitting
10 member of the board and who shall:

11 (A) Be a graduate of a legally constituted and reputable
12 medical college;

13 (B) Be of good standing; and

14 (C) Have all the powers of the members of the board.

15 (2) The Chief Health Officer shall also be known as the
16 Secretary of the State Board of Health and shall perform such duties as may
17 be required of him or her by the board or by this subchapter, including, but
18 not limited to:

19 (A) Serving as the public representative for the board;

20 (B) Serving as the board's representative on various other
21 state and private boards and commissions as required by the board or in
22 provisions of the Arkansas Code;

23 (C) Representing the board by providing health information
24 and assisting the division in providing risk factor assessments in regard to
25 improving quality of health issues at public events; and

26 (D) Assisting the board and the ~~division~~ Department of
27 Health in:

28 (i) The creation of various health-oriented outreach
29 campaigns utilizing print, radio, and television public service
30 announcements, advertisements, posters, and other materials;

31 (ii) Targeting population segments at risk for
32 various health issues;

33 (iii) Providing reliable information on various
34 health issues to policy makers;

35 (iv) Distributing information through county health
36 departments, schools, area agencies on aging, employer wellness programs,

1 physicians, hospitals and health maintenance organizations, women's groups,
2 nonprofit organizations, and community-based organizations;

3 (v) Raising, by any other strategy, public awareness
4 about health issues that are consistent with the provisions of this
5 subchapter;

6 (vi) Identifying and obtaining educational materials
7 for the professional health care providers that translate the latest
8 scientific and medical information on various health issues into clinical
9 applications;

10 (vii) Raising awareness among professional health
11 care providers as to the importance of prevention, early detection,
12 treatment, and rehabilitation practices, techniques, and reporting measures
13 related to various health issues; and

14 (viii) Developing and conducting workshops and
15 seminars for in-depth professional development in the field of the care and
16 management related to various health issues.

17
18 SECTION 5. Arkansas Code § 20-7-105(a), concerning the proceedings of
19 the State Board of Health, is amended to read as follows:

20 (a)(1) The State Board of Health shall meet at least one (1) time
21 every three (3) months ~~and,~~

22 (2) ~~upon~~ Upon the call of the President of the State Board of
23 Health, ~~the Director of the Department of Health and Human Services,~~ or a
24 majority of the members of the board, the board shall meet at such other
25 times as may be necessary in the interest of public health.

26
27 SECTION 6. Arkansas Code § 20-7-106 is amended to read as follows:
28 20-7-106. Office.

29 The office of the State Board of Health shall be located in Little
30 Rock, and the board shall be furnished with all necessary equipment and
31 supplies, including laboratory supplies, books, stationery, blanks,
32 furniture, etc., as are provided other officers of the state and as are
33 necessary for carrying on the work of the board, and the office is to be
34 provided in a suitable building to be designated by the ~~Director of the~~
35 ~~Department of Health and Human Services~~ Governor.

36

1 SECTION 7. Arkansas Code § 20-64-1001(a), concerning the creation of
2 the position of Arkansas Drug Director, is amended to read as follows:

3 (a)(1) There is created within the Office of the Governor a position
4 of Arkansas Drug Director, who shall serve at the pleasure of the Governor.

5 (2) ~~Effective at 12:01 a.m. on July 1, 2005~~ Effective sixty (60) days
6 after the Governor creates the Department of Health under this act, the
7 position of Arkansas Drug Director is transferred to the ~~Division of~~
8 ~~Behavioral Health of the Department of Health and Human Services~~ Department
9 of Health.

10
11 SECTION 8. Arkansas Code § 20-64-1001(d), concerning the creation of
12 the position of Arkansas Drug Director, is amended to read as follows:

13 (d)(1)(A) The Arkansas Drug Director shall maintain an office at a
14 location to be determined by the ~~Director of the Division of Behavioral~~
15 ~~Health of the Department of Health and Human Services~~ Governor.

16 (B) All records required by law to be kept by the director
17 shall be maintained at the office.

18 (2) ~~The Arkansas Drug Director is authorized to~~ director may
19 establish and enforce rules and regulations regarding the management of the
20 Special State Assets Forfeiture Fund, created in § 5-64-505, and the
21 maintenance and inspection of drug task force records concerning asset
22 forfeitures, revenues, expenditures, and grant funds.

23 (3) ~~The Director of the Division of Behavioral Health of the~~
24 ~~Department of Health and Human Services is authorized to~~ director may hire
25 employees to assist in these functions.

26
27 SECTION 9. Arkansas Code § 25-9-101 is amended to read as follows:
28 25-9-101. Creation - Director - Organization - Personnel.

29 (a)(1) There is created the ~~Division of Health of the Department of~~
30 ~~Health and Human Services~~ Department of Health.

31 (2) ~~The executive head of the Division of Health of the~~
32 ~~Department of Health and Human Services shall be the Director of the Division~~
33 ~~of Health of the Department of Health and Human Services~~ Chief Health Officer
34 for the State of Arkansas shall be the Director of the Department of Health.

35 (b) ~~The Division of Health of the Department of Health and Human~~
36 ~~Services~~ Department of Health shall consist of the divisions which existed as

1 of July 1, 1971, within the State Board of Health, created by § 20-7-101 et
2 seq., and any other divisions or units which may be created by law and placed
3 under the ~~Division of Health of the Department of Health and Human Services~~
4 Department of Health.

5 (c)(1)(A) ~~The Director of the Division of Health of the Department of~~
6 ~~Health and Human Services, with the advice and consent of the Director of the~~
7 ~~Department of Health and Human Services, Chief Health Officer with the advice~~
8 ~~and consent of the Governor shall appoint the heads of the respective units~~
9 ~~of the Division of Health of the Department of Health and Human Services~~
10 Department of Health.

11 (B) All other personnel of the ~~Division of Health of the~~
12 ~~Department of Health and Human Services Department of Health~~ shall be
13 employed by and shall serve at the pleasure of the ~~Director of the Department~~
14 ~~of Health and Human Services, Chief Health Officer~~.

15 (2) However, nothing in this section shall be so construed as to
16 reduce any right which ~~that~~ an employee of the ~~Division of Health of the~~
17 ~~Department of Health and Human Services Department of Health~~ shall have ~~has~~
18 under any civil service or merit system.

19 (d)(1) Each unit of the ~~Division of Health of the Department of Health~~
20 ~~and Human Services Department of Health~~ shall be under the direction,
21 control, and supervision of the ~~Director of the Department of Health and~~
22 ~~Human Services, Chief Health Officer~~.

23 (2) ~~The Director of the Division of Health of the Department of~~
24 ~~Health and Human Services, with the consent of the Director of the Department~~
25 ~~of Health and Human Services, Chief Health Officer~~ may delegate his or her
26 functions, powers, and duties to various units of the ~~Division of Health of~~
27 ~~the Department of Health and Human Services Department of Health~~ as he or she
28 shall deem desirable and necessary for the effective and efficient operation
29 of the ~~Division of Health of the Department of Health and Human Services~~
30 Department of Health.

31 (e)(1) ~~The Division of Health of the Department of Health and Human~~
32 ~~Services Department of Health~~ shall maintain an Office of Oral Health.

33 (2) The Director of the Office of Oral Health shall be an
34 experienced public health dentist licensed to practice under the Arkansas
35 Dental Practice Act, § 17-82-101 et seq.

36 (3) The Director of the Office of Oral Health shall:

1 (A) Plan, direct, and coordinate all dental public health
2 programs with other local, state, and national health programs;

3 (B) Serve as the department’s chief advisor on matters
4 involving oral health; and

5 (C) Plan, implement, and evaluate all oral health programs
6 within the department.

7
8 SECTION 10. Arkansas Code § 25-10-101 is amended to read as follows:
9 25-10-101. Creation - Appointment of director.

10 (a) There is created a ~~Department of Health and Human Services~~
11 Department of Human Services.

12 (b)(1) The executive head of the department shall be the Director of
13 the ~~Department of Health and Human Services~~ Department of Human Services.

14 (2) The director shall be appointed by the Governor with the
15 consent of the Senate and shall serve at the pleasure of the Governor.

16
17 SECTION 11. Arkansas Code § 25-10-102 is amended to read as follows:
18 25-10-102. Organization generally.

19 (a) The ~~Department of Health and Human Services~~ Department of Human
20 Services shall consist of and be operated under an integrated service system
21 consisting of the following ~~twelve (12)~~ eleven (11) divisions with
22 ~~responsibility~~ responsibilities and programs assigned to them as determined
23 by the Director of the ~~Department of Health and Human Services~~ Department of
24 Human Services:

25 (1) A Division of Aging and Adult Services;

26 (2) A Division of Medical Services;

27 (3) A Division of Behavioral Health, which shall include
28 community mental health centers, state hospitals, and the Bureau of Alcohol
29 and Drug Abuse Prevention;

30 (4) A Division of Developmental Disabilities Services, which
31 shall include both community programs and human development centers;

32 (5) A Division of County Operations;

33 (6) A Division of Administrative Services;

34 (7) A Division of Youth Services, which shall include serious
35 offender and community-based programs and the youth service centers;

36 (8) A Division of Volunteerism;

1 (9) A Division of State Services for the Blind;

2 (10) A Division of Children and Family Services; and

3 (11) A Division of Child Care and Early Childhood Education;

4 and.

5 ~~(12) A Division of Health.~~

6 (b)(1)(A) Each division of the ~~Department of Health and Human Services~~
7 Department of Human Services shall be under the direction, control, and
8 supervision of the director.

9 (B) From time to time, the director may transfer or assign
10 existing duties or new programs or duties of the department to offices,
11 sections, or units as he or she deems necessary for the efficient and
12 necessary operation of the department.

13 (C) Prior to implementation of any reorganization, the
14 director shall obtain the advice of the House Interim Committee on State
15 Agencies and Governmental Affairs and the Senate Interim Committee on State
16 Agencies and Governmental Affairs.

17 (2)(A) However, the state institutions and the operation of
18 state institutional programs under the jurisdiction of the Board of
19 Developmental Disabilities Services and the ~~Department of Health and Human~~
20 Services Department of Human Services State Institutional System Board, as
21 provided by law, shall be under the control of their respective boards.

22 (B) The boards shall perform their respective functions
23 and duties under the general guidelines and standards promulgated by the
24 director.

25 (3) The Division of State Services for the Blind and the Board
26 of the Division of State Services for the Blind shall continue to function
27 within the ~~Department of Health and Human Services~~ Department of Human
28 Services with the powers prescribed in § 25-10-201 et seq.

29
30 SECTION 12. Arkansas Code §§ 25-10-401 and 25-10-402 are amended to
31 read as follows:

32 25-10-401. Creation.

33 The state institutions of the ~~Department of Health and Human Services~~
34 Department of Human Services, known as the State Hospital for the Mentally
35 Ill at Little Rock, the long-term care facility at Benton, the George W.
36 Jackson Mental Health Center at Jonesboro, the youth services centers located

1 at Alexander and North Little Rock, and all other facilities owned and
2 operated by the ~~Department of Health and Human Services~~ Department of Human
3 Services for youth services or mental health treatment are consolidated to
4 form the ~~Department of Health and Human Services~~ Department of Human Services
5 State Institutional System.

6
7 25-10-402. Purpose - Guidelines.

8 (a) The ~~Department of Health and Human Services~~ Department of Human
9 Services State Institutional System Board is established to manage the
10 ~~Department of Health and Human Services~~ Department of Human Services State
11 Institutional System, as provided and intended by Arkansas Constitution,
12 Amendment 33.

13 (b) The board shall perform its functions and duties in accordance
14 with the general guidelines, policies, and regulations of the ~~Department of~~
15 ~~Health and Human Services~~ Department of Human Services governing divisions,
16 offices, sections, or units within the department with respect to budgets,
17 personnel and personnel policies, records, purchasing, bookkeeping, and other
18 administrative procedures prescribed by the Director of the ~~Department of~~
19 ~~Health and Human Services~~ Department of Human Services.

20
21 /s/ Steele
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