

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 S2/15/07

# A Bill

SENATE BILL 191

5 By: Senators Steele, Faris  
6  
7

## 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.

## Subtitle

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16  
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 *DIVISION* OF HEALTH OF  
21 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) There is created the Department of Health, that is to be*  
29 *established if the Governor orders the separation of the Division of Health*  
30 *of the Department of Health and Human Services from the Department of Health*  
31 *and Human Services.*

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

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



1           (2) "Department of Health and Human Services" with "Department  
2 of Human Services".

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

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

9           (a) Effective sixty (60) days after the Governor establishes the  
10 Department of Health under this act, and as provided in the orders of the  
11 Governor, the following may be transferred to the Department of Health:

12           (1) Authority, powers, duties, and functions as established by  
13 law for the Division of Health of the Department of Health and Human  
14 Services, including purchasing, budgeting, fiscal, accounting, human  
15 resources, payroll, legal, information systems, maintenance, program support,  
16 administrative support, and other management functions;

17           (2) 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;

20           (3) Rulemaking, regulation, and licensing, promulgation of  
21 rules, rates, regulations, and standards, and the rendering of findings,  
22 orders, and adjudications as established by law for the Division of Health of  
23 the Department of Health and Human Services, except as otherwise specified in  
24 this act.

25           (b) Powers, duties, and functions, including without limitation,  
26 rulemaking, regulation, and licensing, promulgation of rules, rates,  
27 regulations, and standards, budgetary responsibilities, and the rendering of  
28 findings, orders, and adjudications as established by law for the Breast  
29 Cancer Control Program or other transferred entities within the Division of  
30 Health of the Department of Health and Human Services shall be retained as  
31 they existed on June 30, 2005.

32           (c) The Governor may appoint a Surgeon General in accordance with §  
33 20-7-103.

34  
35           SECTION 3. Transfer of the State Board of Health to the Department of  
36 Health.

1           (a) Effective sixty (60) days after the Department of Health is  
2 established, the State Board of Health shall be transferred to the Department  
3 of Health.

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

10           (1) Rule making, licensing, and registration;

11           (2) The promulgation of rules, rates, and standards;

12           (3) Examining, investigating, inspecting, and reviewing; and

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

14  
15           SECTION 4. Arkansas Code §§ 20-7-102 and 20-7-103 are amended to read  
16 as follows:

17           20-7-102. Members – Appointment.

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

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

23                           (i) One (1) member shall be appointed from each of  
24 the four (4) congressional districts of this state as established by § 7-2-  
25 101 et seq.; and

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

29           (B) Notwithstanding the provisions of subdivision  
30 (a)(1)(A) of this section, at least one (1) of the positions allocated for  
31 licensed medical doctors shall be an osteopathic physician appointed from a  
32 list of not fewer than three (3) names presented to the Governor by the  
33 Arkansas Osteopathic Medical Association from the state at large;

34           (2) One (1) member shall be a regularly licensed, registered,  
35 and practicing dentist who has at least seven (7) years' experience in the  
36 practice of his or her profession in this state. This member shall be

1 appointed from a list of not fewer than three (3) names presented by the  
2 Arkansas State Dental Association;

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

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

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

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

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

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

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

1 Arkansas Optometric Association;

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

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

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

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

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

23 (15) One (1) member shall be a member of the Arkansas Public  
24 Health Association. The member shall be appointed by the Governor from a list  
25 of three (3) names submitted by the Arkansas Public Health Association;

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

29 ~~One (1) member shall be the Director of the Department of~~  
30 ~~Health and Human Services or his or her designee~~ One (1) member shall be the  
31 Director of the Department of Health or the Director of the Division of  
32 Health of the Arkansas Department of Health and Human Services.

33 (b) Each of the members of the board so appointed shall take the oath  
34 prescribed by the Arkansas Constitution for state officers and shall be  
35 commissioned by the Governor in the same manner as other state officials.

36

1           20-7-103. *Members – Officers.*

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

7           (b)(1) *With approval of the board the Governor ~~shall~~ may appoint a*  
8 *~~Chief Health Officer~~ Surgeon General for the State of Arkansas who shall not*  
9 *be a current sitting member of the board and who shall:*

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

12                       (B) *Be of good standing; ~~and~~*

13                       (C) *Have all the powers of the members of the board~~;~~ and*

14                       (D) *Serve as a cabinet level advisor to the Governor.*

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

19                       (A) *~~Serving as the public representative for the board~~*  
20 *Reviewing, assessing, and developing health policy options, including*  
21 *insurance coverage, health risk management, disease prevention, and health*  
22 *promotion strategies across state agencies;*

23                       (B) *~~Serving as the board's representative on various other~~*  
24 *~~state and private boards and commissions as required by the board or in~~*  
25 *~~provisions of the Arkansas Code~~ Providing policy options for the Governor and*  
26 *senior state agency officials;*

27                       (C) *~~Representing the board by providing health information~~*  
28 *~~and assisting the division in providing risk factor assessments in regard to~~*  
29 *~~improving quality of health issues at public events; Raising awareness of~~*  
30 *healthcare and public health areas of priority for advancement of the state*  
31 *population's health;*

32                       (D) *~~Assisting the board and the division in~~ Reviewing*  
33 *legislative analyses and proposed legislation and creating position*  
34 *statements for the Governor and senior state agency officials~~;~~*

35                       (E) *Advising the Governor, senior state agency officials,*  
36 *and governing boards and commissions on policy issues and program*

1 accomplishments; and

2 (F) Providing medical review oversight and guidance to  
 3 health and human services clinical programs upon request.

4 ~~(i) The creation of various health-oriented outreach~~  
 5 ~~campaigns utilizing print, radio, and television public service~~  
 6 ~~announcements, advertisements, posters, and other materials;~~

7 ~~(ii) Targeting population segments at risk for~~  
 8 ~~various health issues;~~

9 ~~(iii) Providing reliable information on various~~  
 10 ~~health issues to policy makers;~~

11 ~~(iv) Distributing information through county health~~  
 12 ~~departments, schools, area agencies on aging, employer wellness programs,~~  
 13 ~~physicians, hospitals and health maintenance organizations, women's groups,~~  
 14 ~~nonprofit organizations, and community based organizations;~~

15 ~~(v) Raising, by any other strategy, public awareness~~  
 16 ~~about health issues that are consistent with the provisions of this~~  
 17 ~~subchapter;~~

18 ~~(vi) Identifying and obtaining educational materials~~  
 19 ~~for the professional health care providers that translate the latest~~  
 20 ~~scientific and medical information on various health issues into clinical~~  
 21 ~~applications;~~

22 ~~(vii) Raising awareness among professional health~~  
 23 ~~care providers as to the importance of prevention, early detection,~~  
 24 ~~treatment, and rehabilitation practices, techniques, and reporting measures~~  
 25 ~~related to various health issues; and~~

26 ~~(viii) Developing and conducting workshops and~~  
 27 ~~seminars for in-depth professional development in the field of the care and~~  
 28 ~~management related to various health issues.~~

29  
 30 SECTION 5. Arkansas Code § 20-7-105(a), concerning the proceedings of  
 31 the State Board of Health, is amended to read as follows:

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

34 (2) ~~upon~~ Upon the call of the President of the State Board of  
 35 Health, ~~the Director of the Department of Health and Human Services,~~ or a  
 36 majority of the members of the board, the board shall meet at such other

1 times as may be necessary in the interest of public health.

2  
3 SECTION 6. Arkansas Code § 20-7-106 is amended to read as follows:  
4 20-7-106. Office.

5 The office of the State Board of Health shall be located in Little  
6 Rock, and the board shall be furnished with all necessary equipment and  
7 supplies, including laboratory supplies, books, stationery, blanks,  
8 furniture, etc., as are provided other officers of the state and as are  
9 necessary for carrying on the work of the board, and the office is to be  
10 provided in a suitable building to be designated by the ~~Governor~~ Director of  
11 the Department of Health or the Director of the Division of Health of the  
12 Department of Health and Human Services.

13  
14 SECTION 7. Arkansas Code § 25-9-101 is amended to read as follows:  
15 25-9-101. Creation – Director – Organization – Personnel.

16 (a)(1)(A) ~~There is created the Division of Health of the Department of~~  
17 ~~Health and Human Services~~ Department of Health, that is to be established if  
18 the Governor orders the separation of the Division of Health of the  
19 Department of Health and Human Services from the Department of Health and  
20 Human Services.

21 (B) Unless stated otherwise, all references in this  
22 chapter to “Director” shall mean the Director of the Department of Health if  
23 established, and otherwise the Director of the Division of Health of the  
24 Department of Health and Human Services.

25 (2)(A) ~~The executive head of the Division of Health of the~~  
26 ~~Department of Health and Human Services shall be the Director of the Division~~  
27 ~~of Health of the Department of Health and Human Services~~ Governor shall  
28 appoint the Director of the Department of Health if established, and  
29 otherwise the Director of the Division of Health of the Department of Health  
30 and Human Services.

31 (B) The Director shall:

32 (i) Serve as the executive head of the Department of  
33 Health or the Division of Health of the Department of Health and Human  
34 Services;

35 (ii) Serve at the pleasure of the Governor;

36 (iii) Act as the Secretary of the Board of Health;



1 and

2 (iv) Serve as the State Health Officer, with  
3 appropriate authority to ensure public health and safety, including  
4 leadership on health issues related to emergency preparedness and disaster  
5 management.

6 ~~(b) The Division of Health of the Department of Health and Human~~  
7 ~~Services shall consist of the divisions which existed as of July 1, 1971,~~  
8 ~~within the State Board of Health, created by § 20-7-101 et seq., and any~~  
9 ~~other divisions or units which may be created by law and placed under the~~  
10 ~~Division of Health of the Department of Health and Human Services.~~

11 ~~(e)(b)(1)(A) The Director of the Division of Health of the Department~~  
12 ~~of Health and Human Services director, with the advice and consent of the~~  
13 ~~Director of the Department of Health and Human Services, Governor, shall~~  
14 ~~appoint the heads of the respective units of the Division of Health of the~~  
15 ~~Department of Health and Human Services or the Department of Health.~~

16 (B) All other personnel of the Division of Health of the  
17 Department of Health and Human Services shall be employed by and shall serve  
18 at the pleasure of the Director of the Department of Health and Human  
19 Services.

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

24 ~~(d)(c)(1) Each unit of the Division of Health of the Department of~~  
25 ~~Health and Human Services Department of Health shall be under the direction,~~  
26 ~~control, and supervision of the Director of the Department of Health and~~  
27 ~~Human Services director.~~

28 (2) ~~The Director of the Division of Health of the Department of~~  
29 ~~Health and Human Services, with the consent of the Director of the Department~~  
30 ~~of Health and Human Services, director may delegate his or her functions,~~  
31 ~~powers, and duties to various units of the Division of Health of the~~  
32 ~~Department of Health and Human Services Department of Health as he or she~~  
33 ~~shall deem desirable and necessary for the effective and efficient operation~~  
34 ~~of the Division of Health of the Department of Health and Human Services~~  
35 Department of Health.

36 ~~(e)(d)(1) The Division of Health of the Department of Health and Human~~

1 Services or the Department of Health shall maintain an Office of Oral Health.

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

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

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

8 (B) Serve as the department's chief advisor on matters  
9 involving oral health; and

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

12  
13 SECTION 8. Arkansas Code § 25-10-101 is amended to read as follows:

14 25-10-101. Creation – Appointment of director.

15 (a) There is created a ~~Department of Health and Human Services~~  
16 Department of Human Services.

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

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

21  
22 SECTION 9. Arkansas Code § 25-10-102 is amended to read as follows:

23 25-10-102. Organization generally.

24 (a) All references in this chapter to "Department" mean the Department  
25 of Health and Human Services or, if the Department of Health is established,  
26 to the Department of Human Services. All references in this chapter to  
27 "Director" shall mean the Director of the Department of Health.

28 (b) ~~The Department of Health and Human Services~~ department shall  
29 consist of and be operated under an integrated service system consisting of  
30 the following ~~twelve (12)~~ divisions with ~~responsibility~~ responsibilities and  
31 programs assigned to them as determined by the Director of the ~~Department of~~  
32 ~~Health and Human Services~~:

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

34 (2) A Division of Medical Services;

35 (3) A Division of Behavioral Health, which shall include  
36 community mental health centers, state hospitals, and the Bureau of Alcohol

1 and Drug Abuse Prevention;

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

4 (5) A Division of County Operations;

5 (6) A Division of Administrative Services;

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

8 (8) A Division of Volunteerism;

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

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

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

12 (12) A Division of Health, subject to the establishment of a  
13 Department of Health.

14 ~~(b)(1)(A)(c)(1)(A)~~ Each division of the ~~Department of Health and Human~~  
15 ~~Services~~ department shall be under the direction, control, and supervision of  
16 the director.

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

21 (C) Prior to implementation of any reorganization, the  
22 director shall obtain the advice of the House Interim Committee on State  
23 Agencies and Governmental Affairs and the Senate Interim Committee on State  
24 Agencies and Governmental Affairs.

25 (2)(A) However, the state institutions and the operation of  
26 state institutional programs under the jurisdiction of the Board of  
27 Developmental Disabilities Services and the Department of ~~Health and Human~~  
28 ~~Services~~ State Institutional System Board, as provided by law, shall be under  
29 the control of their respective boards.

30 (B) The boards shall perform their respective functions  
31 and duties under the general guidelines and standards promulgated by the  
32 director.

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

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

25-10-401. Creation.

The state institutions ~~of the Department of Health and Human Services~~, known as the State Hospital for the Mentally Ill at Little Rock, the long-term care facility at Benton, the George W. Jackson Mental Health Center at Jonesboro, the youth services centers located at Alexander and North Little Rock, and all other facilities owned and operated by the ~~Department of Health and Human Services~~ department for youth services or mental health treatment are consolidated to form the Department ~~of Health and Human Services~~ State Institutional System.

25-10-402. Purpose – Guidelines.

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

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

/s/ Steele