

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

# A Bill

SENATE BILL 269

4  
5 By: Senator J. Jeffress  
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7

## For An Act To Be Entitled

8  
9 AN ACT TO PROTECT PROGRAMS DESIGNED TO ASSIST  
10 PERSONS SUFFERING FROM MENTAL ILLNESS; TO SUSTAIN  
11 THE AUTONOMY OF REHABILITATIVE SERVICES FOR  
12 PERSONS WITH MENTAL ILLNESS; AND FOR OTHER  
13 PURPOSES.  
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## Subtitle

15  
16 AN ACT TO SUSTAIN THE AUTONOMY OF  
17 REHABILITATIVE SERVICES FOR PERSONS WITH  
18 MENTAL ILLNESS.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code § 20-78-202 is amended to read as follows:  
24 20-78-202. Definitions.

25 As used in this subchapter, ~~unless the context otherwise requires:~~

26 (1)(A) "Child Care Appeal Review Panel" or "panel" means an  
27 eleven-member body under the ~~Department of Human Services~~ the Department of  
28 Health and Human Services which shall serve as a review and appeal body  
29 regarding licensure or registration actions.

30 (B)(i) The panel shall consist of eleven (11) members,  
31 including the following:

- 32 (a) Three (3) early childhood professionals;  
33 (b) One (1) pediatric health professional;  
34 (c) One (1) parent of a child in a licensed  
35 early childhood program;  
36 (d) The Director of the Division of Child Care



1 and Early Childhood Education or his or her designee who shall serve as chair  
2 of the panel and shall not vote; and

3 (e) Five (5) licensed child care providers  
4 representing a diversity of child care settings.

5 (ii) Legal counsel from the office of the Attorney  
6 General shall serve as a facilitator of the panel and shall not serve as a  
7 voting member.

8 (iii) Alternates shall be chosen to serve during  
9 times of absence or in cases of conflict of interest. Five (5) alternates  
10 shall be chosen as follows:

11 (a) One (1) early childhood professional;

12 (b) One (1) pediatric health professional;

13 (c) One (1) parent of a child in a licensed  
14 early childhood program; and

15 (d) Two (2) licensed child care providers.

16 (iv) Members of the panel shall not be members of  
17 the Arkansas Early Childhood Commission.

18 (C)(i) The commission, from applications submitted, shall  
19 make panel selections from persons meeting the qualifications for service and  
20 exhibiting a willingness and time commitment to serve on the panel.

21 (ii) Panel members may be replaced under the same  
22 guidelines as commission members.

23 (D)(i) Members of the panel shall serve for three-year  
24 terms, not to exceed six (6) consecutive years of service on the panel.

25 (ii) Members from the office of the Attorney General  
26 and the Director of the Division of Child Care and Early Childhood Education  
27 shall hold permanent offices.

28 (E) Members of the panel shall receive no compensation  
29 other than normal state reimbursement for travel, meals, and lodging when  
30 applicable.

31 (F) The panel shall schedule monthly meetings and may meet  
32 more often as necessary.

33 (G) A majority of the panel shall constitute a quorum, and  
34 a majority of those present may decide any issue before the panel. In the  
35 event of a tie vote by the panel, the division's decision shall stand.

36 (H)(i) Decisions of the panel shall be the final

1 administrative appeal.

2 (ii) Providers or the division may appeal the  
3 panel's findings to the circuit court of the licensee's county of residence  
4 or to the Circuit Court of Pulaski County.

5 (I) There shall be no monetary liability on the part of  
6 and no cause of action for damages shall arise against any member of the  
7 panel for any act or proceeding undertaken or performed within the scope of  
8 the functions of the panel if the panel member acts without malice or fraud;  
9 and

10 (2)(A)(i) "Child care facility" means any facility which  
11 provides care, training, education, or supervision for any unrelated minor  
12 child, whether or not the facility is operated for profit and whether or not  
13 the facility makes a charge for the services offered by it.

14 (ii) For the purposes of this subdivision (2),  
15 "related minor child" means a minor child related by blood, marriage, or  
16 adoption to the owner or operator of the facility or a minor child who is a  
17 ward of the owner or operator of the facility pursuant to a guardianship  
18 order issued by an Arkansas court of competent jurisdiction.

19 (B) This definition includes, but is not limited to, a  
20 nursery, a nursery school, a kindergarten, a day care center, or a family day  
21 care home.

22 (C) ~~In~~ Except for a facility that is offering  
23 rehabilitative services for persons with mental illness, in any case where in  
24 which a facility or the owner or operator thereof is appointed guardian of a  
25 total of ten (10) or more minors, it shall be presumed that the facility,  
26 owner, or operator is engaged in child care and shall be subject to child  
27 care facility licensure.

28 (D) However, this definition does not include:

29 (i) Special schools or classes operated solely for  
30 religious instruction;

31 (ii) Facilities operated in connection with a  
32 church, shopping center, business, or establishment where children are cared  
33 for during short periods of time while parents or persons in charge of the  
34 children are attending church services, shopping, or engaging in other  
35 activities during the periods;

36 (iii) Any educational facility, whether private or

1 public, which operates solely for educational purposes in grades one (1) or  
 2 above and does not provide any custodial care;

3 (iv) Kindergartens operated as a part of the public  
 4 schools of this state;

5 (v) Any situation, arrangement, or agreement by  
 6 which one (1) or more persons care for fewer than six (6) children from more  
 7 than one (1) family at the same time;

8 (vi) Any educational facility, whether public or  
 9 private, which operates a kindergarten program in conjunction with grades one  
 10 (1) and above and provides short-term custodial care prior to or following  
 11 classes for those students;

12 (vii)(a) Any recreational facility or program,  
 13 whether public or private, which operates solely as a place of recreation for  
 14 minor children.

15 (b) For purposes of this subdivision (2), a  
 16 "recreational facility or program" is defined as a facility or program which  
 17 operates with children arriving and leaving voluntarily for scheduled  
 18 classes, activities, practice, games, and meetings;

19 (viii) Any state-operated facility to house juvenile  
 20 delinquents or any serious offender program facility operated by a state  
 21 designee to house juvenile delinquents, foster home, group home, or custodial  
 22 institution. Those facilities shall be subject to program requirements  
 23 modeled on nationally recognized correctional and child welfare standards,  
 24 which shall be developed, administered, and monitored by the Division of  
 25 Youth Services; ~~and~~

26 (ix) ~~The Arkansas School for Mathematics and~~  
 27 ~~Sciences~~ Arkansas School for Mathematics, Sciences, and the Arts; and

28 (x) Facilities offering rehabilitative services for  
 29 persons with mental illness.

30 ~~(3) "Department" means the Department of Human Services;~~

31 ~~(4) "Deputy director" means the Deputy Director of the Division~~  
 32 ~~of Child Care and Early Childhood Education; and~~

33 ~~(5) "Division" means the Division of Child Care and Early~~  
 34 ~~Childhood Education of the Department of Human Services.~~

35  
 36 SECTION 2. Arkansas Code § 20-78-206, concerning Division of Child

1 Care and Early Childhood Education rules and regulations, is amended to add  
2 an additional subsection to read as follows:

3 (g) The Division of Child Care and Early Childhood Education shall not  
4 promulgate or enforce rules concerning rehabilitative services for persons  
5 with mental illness.

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