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2 89th General Assembly
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4

A Bill

HOUSE BILL 1499

5 By: Representative H. Wilkins
6

For An Act To Be Entitled

8 AN ACT TO REMOVE THE OFFICE OF ALCOHOL AND DRUG ABUSE
9 PREVENTION FROM THE ARKANSAS CODE; TO REMOVE THE
10 OFFICE OF PUBLIC GUARDIAN FOR ADULTS FROM THE
11 DIVISION OF AGING AND ADULT SERVICES; AND FOR OTHER
12 PURPOSES.
13
14

Subtitle

15 TO REMOVE THE OFFICE OF ALCOHOL AND DRUG
16 ABUSE PREVENTION FROM THE ARKANSAS CODE;
17 AND TO REMOVE PUBLIC GUARDIAN FROM THE
18 DIVISION OF AGING AND ADULT SERVICES.
19
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21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 5-27-227(c)(1)(B), concerning exempting
25 minors for prohibitions on purchase of tobacco products if the minor is
26 working for the Office of Alcohol and Drug Abuse Prevention, is amended to
27 read as follows:

28 (B) The minor was acting at the direction of an authorized
29 agent of the ~~Office of Alcohol and Drug Abuse Prevention~~ Division of
30 Behavioral Health to compile statistical data relating to the sale of tobacco
31 in any form or cigarette papers to minors;
32

33 SECTION 2. Arkansas Code § 5-64-508(a)-(c), concerning educational
34 programs to prevent the use of controlled substances, is amended to read as
35 follows:

36 (a) The ~~Director of the Office of Alcohol and Drug Abuse Prevention~~



1 Division of Behavioral Health shall carry out educational programs designed
2 to prevent and deter misuse and abuse of controlled substances. In connection
3 with these programs he or she may:

4 (1) Promote better recognition of the problems of misuse and
5 abuse of controlled substances within the regulated industry and among
6 interested groups and organizations;

7 (2) Assist the regulated industry and interested groups and
8 organizations in contributing to the reduction of misuse and abuse of
9 controlled substances;

10 (3) Consult with interested groups and organizations to aid them
11 in solving administrative and organizational problems;

12 (4) Evaluate procedures, projects, techniques, and controls
13 conducted or proposed as part of educational programs on misuse and abuse of
14 controlled substances;

15 (5) Disseminate the results of research on misuse and abuse of
16 controlled substances to promote a better public understanding of what
17 problems exist and what can be done to combat them; and

18 (6) Assist in the education and training of state and local law
19 enforcement officials in their efforts to control misuse and abuse of
20 controlled substances.

21 (b) ~~The Director of the Office of Alcohol and Drug Abuse Prevention~~
22 Division of Behavioral Health shall encourage research on misuse and abuse of
23 controlled substances. In connection with the research, and in furtherance of
24 the enforcement of this chapter, he or she may:

25 (1) Establish methods to assess accurately the effects of
26 controlled substances and identify and characterize those with potential for
27 abuse;

28 (2) Make studies and undertake programs of research to:

29 (A) Develop new or improved approaches, techniques,
30 systems, equipment, and devices to strengthen the enforcement of this
31 chapter;

32 (B) Determine patterns of misuse and abuse of controlled
33 substances and the social effects of misuse and abuse of controlled
34 substances; and

35 (C) Improve methods for preventing, predicting,
36 understanding, and dealing with the misuse and abuse of controlled

1 substances; and

2 (3) Enter into contracts with public agencies, institutions of
3 higher education, and private organizations or individuals for the purpose of
4 conducting research, demonstrations, or special projects that bear directly
5 on misuse and abuse of controlled substances.

6 (c) ~~The Director of the Office of Alcohol and Drug Abuse Prevention~~
7 Division of Behavioral Health may enter into contracts for educational and
8 research activities without performance bonds.

9
10 SECTION 3. Arkansas Code § 5-65-109(a), concerning presenting reports,
11 is amended to read as follows:

12 (a) The court shall immediately request and the ~~Office of Alcohol and~~
13 ~~Drug Abuse Prevention~~ Division of Behavioral Health or its designee shall
14 provide a presentence screening and assessment report of the defendant upon a
15 plea of guilty or nolo contendere to or a finding of guilt of violating § 5-
16 65-103 or § 5-65-303.

17
18 SECTION 4. Arkansas Code § 5-65-115(a), concerning alcohol treatment
19 or education programs, is amended to read as follows:

20 (a)(1) Any person whose driving privileges are suspended or revoked
21 for violating § 5-65-103, § 5-65-303, § 5-65-310, or § 3-3-203 is required to
22 complete an alcohol education program provided by a contractor with the
23 ~~Office of Alcohol and Drug Abuse Prevention~~ Division of Behavioral Health or
24 an alcoholism treatment program licensed by the ~~Office of Alcohol and Drug~~
25 ~~Abuse Prevention~~ Division of Behavioral Health.

26 (2)(A) The alcohol education program may collect a program fee
27 of up to one hundred twenty-five dollars (\$125) per enrollee to offset
28 program costs.

29 (B)(i) A person ordered to complete an alcohol education
30 program under this section may be required to pay, in addition to the costs
31 collected for education or treatment, a fee of up to twenty-five dollars
32 (\$25.00) to offset the additional costs associated with reporting
33 requirements under this subchapter.

34 (ii) The alcohol education program shall report
35 monthly to the ~~Office of Alcohol and Drug Abuse Prevention~~ Division of
36 Behavioral Health all revenue derived from this fee.

1
2 SECTION 5. Arkansas Code § 5-65-115(e), concerning alcohol treatment
3 or education programs, is amended to read as follows:

4 (e) Each alcohol education program or alcoholism treatment program
5 shall remit the fees imposed under this section to the ~~Office of Alcohol and~~
6 ~~Drug Abuse Prevention~~ Division of Behavioral Health.

7
8 SECTION 6. Arkansas Code § 5-65-121(a)(1), concerning victim impact
9 panel attendance, is amended to read as follows:

10 (a)(1) A person whose driving privileges are suspended or revoked for
11 violating § 5-65-103, § 5-65-205, § 5-65-303, § 5-65-310, or § 3-3-203 shall
12 attend a victim impact panel sponsored by an organization approved by the
13 ~~Office of Alcohol and Drug Abuse Prevention~~ Division of Behavioral Health of
14 the Department of Human Services.

15
16 SECTION 7. Arkansas Code § 5-65-307(a)-(c), concerning alcohol and
17 driving education programs, is amended to read as follows:

18 (a)(1)(A) Any person who has his or her driving privileges suspended,
19 revoked, or denied for violating § 3-3-203, § 5-65-310, or § 5-65-303 is
20 required to complete an alcohol and driving education program for underage
21 drivers as prescribed and approved by the ~~Office of Alcohol and Drug Abuse~~
22 ~~Prevention~~ Division of Behavioral Health or an alcoholism treatment program
23 licensed by the ~~Office of Alcohol and Drug Abuse Prevention~~ Division of
24 Behavioral Health, or both, in addition to any other penalty provided in this
25 chapter.

26 (B) If during the period of suspension or revocation in
27 subdivision (a)(1)(A) of this section the underage person commits an
28 additional violation of § 3-3-203 or § 5-65-303, the underage person is also
29 required to complete an approved alcohol and driving education program or
30 alcoholism treatment program for each additional violation.

31 (2) The ~~Office of Alcohol and Drug Abuse Prevention~~ Division of
32 Behavioral Health shall approve only those programs in alcohol and driving
33 education that are targeted at the underage driving group and are intended to
34 intervene and prevent repeat occurrences of driving under the influence or
35 driving while intoxicated.

36 (3)(A)(i) The alcohol and driving education program may collect

1 a program fee of up to one hundred twenty-five dollars (\$125) per enrollee to
2 offset program costs.

3 (ii) An underage person ordered to complete an
4 alcohol and driving education program or an alcoholism treatment program
5 under this section may be required to pay, in addition to the costs collected
6 for the program, a fee of up to twenty-five dollars (\$25.00) to offset the
7 additional costs associated with reporting requirements under this
8 subchapter.

9 (B) An approved alcohol and driving education program
10 shall report monthly to the ~~Office of Alcohol and Drug Abuse Prevention~~
11 Division of Behavioral Health all revenue derived from these fees.

12 (b) Prior to reinstatement of a driver's license suspended or revoked
13 under this subchapter, the driver shall furnish proof of attendance at and
14 completion of the alcohol and driving education program or alcoholism
15 treatment program required under subdivision (a)(1) of this section.

16 (c) The ~~Office of Alcohol and Drug Abuse Prevention~~ Division of
17 Behavioral Health may promulgate rules reasonably necessary to carry out the
18 purposes of this section regarding the approval and monitoring of the alcohol
19 and driving education programs.

20
21 SECTION 8. Arkansas Code § 5-65-307(e), concerning alcohol and driving
22 education programs, is amended to read as follows:

23 (e) Any alcohol and driving education program shall remit the fees
24 imposed under this section to the ~~Office of Alcohol and Drug Abuse Prevention~~
25 Division of Behavioral Health.

26
27 SECTION 9. Arkansas Code § 5-76-103(a), concerning penalties for the
28 operation of motorboats while intoxicated, is amended to read as follows:

29 (a) In addition to any other penalty provided in § 5-76-102, any
30 person who pleads guilty or nolo contendere to or who is found guilty of
31 violating § 5-76-102 is required to complete an alcohol education program as
32 prescribed and approved by the Arkansas Highway Safety Program or an
33 alcoholism treatment program as approved by the ~~Office of Alcohol and Drug~~
34 ~~Abuse Prevention~~ Division of Behavioral Health.

35
36 SECTION 10. Arkansas Code § 9-28-407(5)(A)(iii), concerning licenses

1 for child welfare agencies, is amended to read as follows:

2 (iii) The licensee is licensed by the ~~Office of~~
 3 ~~Alcohol and Drug Abuse Prevention~~ Division of Behavioral Health or its
 4 successor; and

5
 6 SECTION 11. Arkansas Code § 9-33-205(d)(1), concerning a clearinghouse
 7 for the Common Ground Program, is amended to read as follows:

8 (1) The establishment of a Clearinghouse for Youth Crime
 9 Prevention Program in the ~~Office of Alcohol and Drug Abuse Prevention~~
 10 Division of Behavioral Health of the Department of Human Services, that
 11 shall, in collaboration with the Division of Chronic Disease and Disability
 12 Prevention of the Department of Health:

13 (A) Maintain a database that tracks successful youth crime
 14 and violence prevention programs in Arkansas and other states;

15 (B) Develop and implement procedures for the collection of
 16 information about youth crime and violence prevention programs in conjunction
 17 with the committee; and

18 (C) Develop and implement procedures for the dissemination
 19 of information about youth crime and violence prevention programs in
 20 conjunction with the committee;

21
 22 SECTION 12. Arkansas Code § 16-10-305(a)(6)(B), concerning court costs
 23 for convictions relating to controlled substances, is amended to read as
 24 follows:

25 (B) One hundred fifty dollars (\$150) of the court costs
 26 collected under subdivision (a)(6) shall be remitted to the Treasurer of
 27 State by the court clerk for deposit into the Drug Abuse Prevention and
 28 Treatment Fund for the ~~Office of Alcohol and Drug Abuse Prevention~~ Division
 29 of Behavioral Health to be used exclusively for drug courts or other
 30 substance abuse and prevention activities.

31
 32 SECTION 13. Arkansas Code § 16-10-310(b)(2), concerning distribution
 33 of revenue from the State Administration of Justice Fund, is amended to read
 34 as follows:

35 (2) The Public Health Fund and the Drug Abuse Prevention and
 36 Treatment Fund for use in the drug abuse prevention and treatment program of

1 the ~~Office of Alcohol and Drug Abuse Prevention~~ Division of Behavioral
 2 Health;

3
 4 SECTION 14. Arkansas Code § 16-98-201(1), concerning qualifications
 5 for drug diversion, is amended to read as follows:

6 (1) The treatment program is at least one (1) year in length and
 7 meets the minimum standards of treatment promulgated by the ~~Bureau of Alcohol~~
 8 ~~and Drug Abuse Prevention~~ Division of Behavioral Health of the Department of
 9 ~~Health and Human Services~~;

10
 11 SECTION 15. Arkansas Code § 16-98-303(f)(2), concerning authorization
 12 for drug courts, is amended to read as follows:

13 (2) Serve as a coordinator between drug court judges, the
 14 Department of Community Correction, the ~~Office of Alcohol and Drug Abuse~~
 15 ~~Prevention~~ Division of Behavioral Health, private treatment provider
 16 representatives, and public health advocates;

17
 18 SECTION 16. Arkansas Code § 16-98-307(b)(6), concerning the membership
 19 of the Drug Court Advisory Committee, is amended to read as follows:

20 (6) The Director of the ~~Office of Alcohol and Drug Abuse~~
 21 ~~Prevention~~ Division of Behavioral Health or the director's designee;

22
 23 SECTION 17. Arkansas Code § 19-5-307(b)(6), concerning the Public
 24 Health Fund, is amended to read as follows:

25 (6) Moneys transferred or deposited from the State
 26 Administration of Justice Fund to support alcoholism treatment programs and
 27 for use in the drug abuse prevention and treatment program of the ~~Office of~~
 28 ~~Alcohol and Drug Abuse Prevention~~ Division of Behavioral Health; and

29
 30 SECTION 18. Arkansas Code § 20-9-201(4) and (5), concerning
 31 definitions for health care facility services, are amended to read as
 32 follows:

33 (4)(A) "Hospital" means a public health center, a general,
 34 tuberculosis, mental, or chronic disease hospital, or a related facility such
 35 as a laboratory, outpatient department, nurses home or training facility, or
 36 a central service facility operated in connection with a hospital.

(B) "Hospital" does not include an establishment:

(i) Furnishing primarily domiciliary care; or

(ii) Licensed or certified by the ~~Office of Alcohol and Drug Abuse Prevention of the~~ Division of Behavioral Health of the Department of Human Services as an alcohol and drug abuse inpatient treatment center;

(5)(A) "Institution" means a place for the diagnosis, treatment, or care of two (2) or more persons not related to the proprietor, suffering from illness, injury, or deformity, or where obstetrical care or care of the aged, blind, or disabled is rendered over a period exceeding twenty-four (24) hours.

(B) "Institution" also includes an outpatient surgery center, outpatient psychiatric center, and infirmary.

(C) "Institution" does not include an establishment:

(i) Operated by the federal government or by any of its agencies; or

(ii) Licensed or certified by the ~~Office of Alcohol and Drug Abuse Prevention of the~~ Division of Behavioral Health of the Department of Human Services as an alcohol and drug abuse inpatient treatment center;

SECTION 19. Arkansas Code § 20-64-601 is repealed.

~~20-64-601. Office of Alcohol and Drug Abuse Prevention—Creation.~~

~~(a) There is established within the Division of Behavioral Health of the Department of Human Services an Office of Alcohol and Drug Abuse Prevention to be located under the office of the Director of the Department of Human Services.~~

~~(b) The head of the Office of Alcohol and Drug Abuse Prevention shall be appointed by the director.~~

~~(c) Such personnel as are necessary shall be appointed by the office head to carry out the powers, duties, functions, and responsibilities of the Office of Alcohol and Drug Abuse Prevention, in accordance with the requirements of law within the limits of available appropriations.~~

SECTION 20. Arkansas Code § 20-64-602 is amended to read as follows:

20-64-602. ~~Bureau of Alcohol and Drug Abuse Prevention~~ Division of

1 Behavioral Health – Powers and duties.

2 (a) ~~The Bureau of Alcohol and Drug Abuse Prevention~~ Division of
3 Behavioral Health shall:

4 (1) Coordinate all state and federally funded programs dealing
5 with alcohol and drug abuse in the state;

6 (2) Provide information to the public on the problems and needs
7 of alcohol and drug abusers;

8 (3) Make evaluations of the effectiveness and efficiency of
9 various agencies and programs relating to alcohol and drug abuse; and

10 (4) Exercise all authority not inconsistent with the provisions
11 of this subchapter as may be necessary to carry out the purposes and intent
12 of this subchapter.

13 (b) The duties and responsibilities of the ~~bureau~~ division shall
14 include the following:

15 (1) Coordinate all state and federally funded programs,
16 services, and activities relating to the prevention, treatment,
17 rehabilitation, education intervention, and training of alcoholics and
18 persons with alcohol and other drug abuse-related problems;

19 (2) Develop, administer, and implement a state plan for alcohol
20 abuse and drug abuse prevention as defined in Pub. L. 92-255, or its
21 successor, and develop reports on state and local activities in alcohol and
22 drug abuse prevention with recommendations for allocations of resources by
23 refining goals and establishing priorities;

24 (3) Sponsor, encourage, and conduct research into the causes,
25 nature, and treatment of alcoholism, alcohol abuse, and drug abuse and serve
26 as a central source of information and data collection regarding alcohol
27 abuse and drug abuse in this state;

28 (4) Serve in a liaison capacity between the state and local
29 communities and federal government with respect to alcohol abuse and drug
30 abuse programs and, subject to the approval of the Director of the Department
31 of Human Services, enter into agreements with and make commitments on behalf
32 of the State of Arkansas to meet requirements for obtaining federal
33 assistance or grants for partially financing alcohol abuse and drug abuse
34 programs in the state;

35 (5) Divide the state into appropriate regions for the purpose of
36 planning and the provision of services;

1 (6) As may be deemed necessary, establish district, regional, or
2 other substate advisory councils to help carry out the duties of the ~~bureau~~
3 division;

4 (7) Review, on a continuing basis, existing and proposed state
5 statutes relating to alcohol abuse and drug abuse education, prevention,
6 intervention, treatment rehabilitation, and training and make appropriate
7 recommendations for legislation to the director and the General Assembly;

8 (8) Review, on a continuing basis, existing and proposed rules,
9 policies, programs, and procedures of state agencies and political
10 subdivisions concerning alcohol and drug abuse and recommend to the
11 appropriate agency or political subdivision changes in or additions to the
12 rules, policies, programs, and procedures;

13 (9) Review those budget items proposed by other state agencies
14 which are intended for alcohol or drug abuse prevention, intervention,
15 treatment, education, rehabilitation, and training services and make
16 recommendations to the Director of the Department of Human Services;

17 (10) Determine the training and orientation needs of
18 professionals, paraprofessionals, supervisors, managers, and other persons in
19 the public and private sectors who come in contact with those persons
20 affected directly or indirectly with alcohol or drug abuse problems or who
21 may impact in a preventive way with individuals who might otherwise become
22 dependent upon alcohol or other drugs;

23 (11) Assist in the development of programs designed to meet
24 identified needs;

25 (12) Provide technical assistance, guidance, consultation,
26 information, and other appropriate services to local programs, local
27 government, district and regional bodies, and state agencies regarding the
28 creation or modification of alcohol or drug abuse programs and procedures;

29 (13) Establish and apply criteria for evaluation of:

30 (A) The effectiveness of alcohol or drug abuse programs
31 conducted in this state; and

32 (B) The accuracy of information contained in and the
33 effectiveness of literature and audiovisual aids prepared to combat alcohol
34 and drug abuse;

35 (14) Specify uniform methods for keeping statistical information
36 on all individuals receiving services related to the use or misuse of alcohol

1 and drugs and also develop and maintain a centralized data collection and
2 dissemination system for alcohol and drug abuse programs and activities
3 consistent with federal and state statutes and regulations;

4 (15) Prepare an annual report to coincide with appropriate
5 federal reports to be submitted to the advisory council, the director, and
6 the Governor describing activities of the ~~bureau~~ division and the
7 accomplishments and effectiveness of its programs and also prepare special
8 reports as deemed necessary for the advisory council to aid in the
9 fulfillment of its advisory responsibilities;

10 (16) Develop policies, plans, and programs sponsoring and
11 encouraging research and prevention activities in this state, especially in
12 the categories of children and youth, women, minorities, senior citizens, and
13 incarcerated persons but not limited to these areas;

14 (17) Request, as deemed necessary, reports in sufficient detail
15 for various departments of state government regarding their alcohol or drug
16 abuse program activities;

17 (18) Cooperate with and assist and solicit the cooperation and
18 assistance of appropriate state agencies, community mental health centers and
19 clinics, hospitals, doctors, law enforcement officials, courts, ministers,
20 and any and all other public or private agencies or organizations involved in
21 or dedicated to providing services to those persons who have alcohol or drug
22 abuse-related problems;

23 (19) Develop and promulgate standards, rules, and regulations
24 for accrediting, certifying, and licensing alcohol and drug abuse prevention,
25 treatment, and rehabilitation programs and facilities within the state, under
26 the supervision and direction of the director, provided that the standards,
27 rules, and regulations shall not supersede standards, rules, and regulations
28 promulgated by other state agencies for programs or facilities whose primary
29 mission is not alcohol and drug abuse prevention, treatment, and
30 rehabilitation;

31 (20) Review the regulations, guidelines, requirements, and
32 procedures of state and federally funded operating agencies in terms of their
33 consistency with state alcohol and drug abuse prevention policies,
34 priorities, procedures, and objectives and assist the agencies in making
35 changes therein as may be appropriate;

36 (21) Maintain a liaison with all state and local agencies

1 concerned with drug traffic prevention;

2 (22) Conduct annual site visits to all state and federally
3 funded alcohol and drug abuse programs and facilities to determine their
4 compliance with the standards, rules, and regulations for accrediting,
5 certifying, and licensing as set forth in subdivision (19) of this section;

6 (23) Apply for and assist others in applying for state, private,
7 or federal grants-in-aid and, with the advice and counsel of the advisory
8 council, approve applications for state and federal grants and enter into
9 grants and contracts with public agencies, institutes of higher learning, and
10 private organizations or individuals for the purpose of carrying out
11 research, prevention, education, training, treatment, intervention, and
12 rehabilitation activities or special projects which bear directly on the
13 problems related to alcohol and drug abuse or misuse. The contracts or grants
14 may be entered into for these purposes without performance bonds;

15 (24) Be the primary agency responsible for receiving and
16 disbursing all state, federal, and other public moneys collected for the
17 purpose of combating alcohol and drug abuse-related problems in this state
18 and to account for such receipts and disbursements as are made; and

19 (25) Do and perform all other actions and to exercise all other
20 authority not inconsistent with the provisions of this subchapter as may be
21 necessary to carry out the purposes and intent of this subchapter.

22
23 SECTION 21. Arkansas Code § 20-64-704 is amended to read as follows:

24 (5) While the ~~bureau~~ division necessarily must, and does, have
25 discretion as to proportions in which it allocates funds to the various
26 aspects of this problem, it is contemplated and intended that the ~~bureau~~
27 division shall make every reasonable effort not to concentrate too largely on
28 any one (1) phase of the problem at the expense or detriment of other phases.
29 For example, but not limited to, the following phases:

30 (A) That research should not be retarded because of funds
31 directed to treatment, and vice versa;

32 (B) That treatment should not be retarded because of funds
33 directed to rehabilitation, and vice versa; and

34 (C) That rehabilitation should not be retarded because of
35 funds directed to research, and vice versa.

36

1 SECTION 22. Arkansas Code § 20-64-705 is amended to read as follows:

2 20-64-705. ~~Bureau of Alcohol and Drug Abuse Prevention~~ Division of
3 Behavioral Health – Power to accept gifts.

4 (a)(1) The deputy director, on behalf of the ~~bureau~~ Division of
5 Behavioral Health, may receive any federal means, grants, contributions,
6 gifts, and loans which are payable or distributable to the State of Arkansas
7 by the United States or any of its agencies or instrumentalities, under any
8 existing or future federal laws or statutes or rules or regulations of the
9 agencies or instrumentalities, received for or on account of any of the
10 functions performable by the ~~bureau~~ division.

11 (2) The ~~bureau~~ division may also receive gifts, grants,
12 donations, fees, conveyances, or transfers of money and property, both real
13 and personal, from private and public sources, to effectuate the purposes of
14 this subchapter.

15 (b) The deputy director, on behalf of the ~~bureau~~ division, shall sell
16 or dispose of such real or personal property as the ~~bureau~~ division deems
17 advisable, upon specific authorization of the ~~bureau~~ division.

18 (c) Any funds and income from any property so furnished or transferred
19 to the deputy director on behalf of the ~~bureau~~ division shall be placed in
20 the State Treasury in a special fund called the Alcohol and Drug Abuse
21 Prevention Fund Account and expended in the same manner as other state moneys
22 are expended, upon warrants drawn by the comptroller upon the order of the
23 ~~bureau~~ division.

24 (d) Any of the moneys, funds, and property described in this section
25 are appropriated for the purpose of carrying out the provisions of this
26 subchapter.

27
28 SECTION 23. Arkansas Code § 20-64-706 is amended to read as follows:

29 20-64-706. ~~Bureau of Alcohol and Drug Abuse Prevention~~ Division of
30 Behavioral Health – Rules and regulations.

31 The ~~Bureau of Alcohol and Drug Abuse Prevention~~ Division of Behavioral
32 Health shall be responsible for the adoption of all policies and shall make
33 all rules and regulations appropriate to the proper accomplishment of its
34 functions under this subchapter and to the allocation of its funds.

35
36 SECTION 24. Arkansas Code § 20-64-707(a) is amended to read as

1 follows:

2 20-64-707. ~~Bureau of Alcohol and Drug Abuse Prevention~~ Division of
3 Behavioral Health – Cooperation by other departments.

4 (a) To effectuate the purpose of this subchapter and to make maximum
5 use of existing facilities and personnel, it shall be the duty of all
6 departments and agencies of the state government and all officers and
7 employees of the state, when requested by the ~~Bureau of Alcohol and Drug~~
8 ~~Abuse Prevention~~ Division of Behavioral Health, to cooperate with it in all
9 activities consistent with their proper respective functions.

10 (b) Nothing in this section shall be construed as giving the ~~bureau~~
11 division control over existing facilities, institutions, or agencies, or as
12 requiring the facilities, institutions, or agencies to serve the ~~bureau~~
13 division inconsistently with their respective functions, or with the
14 authority of their respective offices, or with the laws and regulations
15 governing their respective activities, or as giving the ~~bureau~~ division power
16 to make use of any private institution or agency without the consent of the
17 private institution or agency, or to pay a private institution or agency for
18 services which a public institution or agency is willing and able to perform
19 adequately.

20

21 SECTION 25. Arkansas Code § 20-64-801(1) and (2), concerning
22 definitions for the treatment of alcohol and drug abuse, are amended to read
23 as follows.

24 (1) “Administrator” refers to the chief administrative officer
25 or executive director of any private or public facility or program designated
26 as a receiving facility or program by the ~~Bureau of Alcohol and Drug Abuse~~
27 ~~Prevention~~ Division of Behavioral Health;

28 ~~(2) “Bureau” refers to the Bureau of Alcohol and Drug Abuse~~
29 ~~Prevention of the Department of Health;~~

30

31 SECTION 26. Arkansas Code § 20-64-801(8), concerning definition for
32 the treatment of alcohol and drug abuse, is amended to read as follows:

33 (8) “Receiving facility or program” refers to a residential,
34 inpatient, or outpatient treatment facility or program which is designated
35 within each geographical area of the state by the ~~bureau~~ division to accept
36 the responsibility for care, custody, and treatment of persons voluntarily

1 admitted or involuntarily committed to the facility or program; and

2
3 SECTION 27. Arkansas Code § 20-64-803 is amended to read as follows:
4 20-64-803. Civil immunity.

5 The prosecuting attorney, deputy prosecuting attorneys, the Office of
6 the Prosecutor Coordinator, law enforcement officers, governing boards of the
7 ~~Bureau of Alcohol and Drug Abuse Prevention~~ Division of Behavioral Health,
8 employees of the ~~bureau~~ division, governing boards of designated receiving
9 facilities, and employees of designated receiving facilities and programs
10 shall be immune from civil liability for performance of duties imposed by
11 this subchapter.

12
13 SECTION 28. Arkansas Code § 20-64-805 is amended to read as follows:
14 20-64-805. Inspections – Procedures.

15 (a) To assure compliance with this subchapter, the ~~Bureau of Alcohol~~
16 ~~and Drug Abuse Prevention~~ Division of Behavioral Health, through its
17 authorized agents, may visit or investigate any receiving program or facility
18 to which persons are admitted or committed under this subchapter.

19 (b) The ~~bureau~~ division shall promulgate written procedures to
20 implement this subchapter on or before July 1, 1995. The provisions shall:

21 (1) Designate receiving facilities and programs within
22 prescribed geographical areas of the state for purposes of voluntary
23 admissions or involuntary commitments under this subchapter; and

24 (2) Establish ongoing mechanisms, guidelines, and regulations
25 for review and refinement of the treatment programs offered in the receiving
26 facilities and programs for alcohol and other drug abuse throughout this
27 state.

28
29 SECTION 29. Arkansas Code § 20-64-821(b) through (d), concerning
30 hearings regarding involuntary commitment, is amended to read as follows:

31 (b)(1)(A) A person named in a petition for involuntary commitment who
32 is placed in immediate detention pending a hearing may undergo a screening
33 and assessment within twenty-four (24) hours of the immediate detention.

34 (B)(i) Except as provided in subdivision (b)(1)(C) of this
35 section, a screening and assessment shall be conducted by a contractor with
36 the ~~Office of Alcohol and Drug Abuse Prevention~~ Division of Behavioral Health

1 (ii) The ~~office~~ division shall assign contractors to
2 conduct screenings and assessments under this subdivision (b)(1).

3 (iii) The ~~office~~ division shall assume the cost of
4 the screening and assessment.

5 (C)(i) If a person named in a petition for involuntary
6 commitment who is placed in immediate detention pending a hearing declines a
7 screening and assessment by a contractor with the ~~office~~ division under
8 subdivision (b)(1)(B) of this section, the person may undergo a screening and
9 assessment by a qualified professional of his or her choosing within twenty-
10 four (24) hours of the immediate detention.

11 (ii) The person named in the petition for
12 involuntary commitment shall assume the cost of a screening and assessment by
13 a qualified professional of his or her choosing.

14 (2)(A) The person conducting a screening and assessment under
15 subdivision (b)(1) of this section shall provide a copy of the results of the
16 screening and assessment to the person named in the petition for involuntary
17 commitment and the prosecuting attorney.

18 (B)(i) The prosecuting attorney may provide a copy to the
19 court.

20 (ii) The court may consider the contents of the
21 screening and assessment as part of its determination of whether the
22 standards for involuntary commitment apply to the person.

23 (c) The person named in the original petition may be removed from the
24 presence of the court upon finding that his or her conduct before the court
25 is so disruptive that proceedings cannot be reasonably continued with him or
26 her present.

27 (d) The petitioner shall appear before the probate judge to
28 substantiate the petition. The court shall make a determination based upon
29 clear and convincing evidence that the standards for involuntary commitment
30 apply to the person. If such a determination is made, the person shall be
31 remanded to a designated agent of the ~~office~~ division or the designated
32 receiving facility for treatment for a period of up to twenty-one (21) days.
33

34 SECTION 30. Arkansas Code § 20-64-830(b)(1), concerning liability for
35 treatment for alcohol and drug treatment, is amended to read as follows:

36 (b)(1) The ~~Bureau of Alcohol and Drug Abuse Prevention~~ Division of

1 Behavioral Health shall promulgate rules specifying the amounts to be fixed
2 as costs and establishing procedures for implementation of this section.

3
4 SECTION 31. Arkansas Code § 20-64-901 is amended to read as follows:
5 20-64-901. Purpose.

6 The purpose of this subchapter is to require all persons, partnerships,
7 associations, or corporations holding themselves out to the public as an
8 alcohol and drug abuse treatment program in the State of Arkansas to meet the
9 licensure standards set by ~~the Office of Alcohol and Drug Abuse Prevention of~~
10 the Division of Behavioral Health ~~Services~~ of the Department of Human
11 Services, unless expressly exempted by this subchapter.

12
13 SECTION 32. Arkansas Code § 20-64-903 is amended to read as follows:
14 20-64-903. Authority – Exemptions – Current programs.

15 (a)(1) The Office of Alcohol and Drug Abuse Prevention of the Division
16 of Behavioral Health Services of the Department of Human Services shall adopt
17 rules for the licensure of alcohol and drug abuse treatment programs in
18 Arkansas.

19 (2) All persons, partnerships, associations, or corporations
20 establishing, conducting, managing, or operating and holding themselves out
21 to the public as alcohol abuse, drug abuse, or alcohol and drug abuse
22 treatment programs shall be licensed by the office division unless expressly
23 exempted under this subchapter.

24 (3) No person, partnership, association, or corporation will be
25 allowed to receive federal or state funds for treatment services until it has
26 received a license.

27 (b) The following programs and persons are exempted from the
28 requirements of this subchapter:

29 (1) Acute care, hospital-based alcohol and drug abuse treatment
30 programs governed by §§ 20-9-201 and 20-10-213;

31 (2) Members of the clergy, Christian Science practitioners, and
32 licensed professionals working within the standards of their respective
33 professions, including without limitation:

- 34 (A) Attorneys;
35 (B) Counselors;
36 (C) Nurses;

- 1 (D) Physicians;
- 2 (E) Psychological examiners;
- 3 (F) Psychologists;
- 4 (G) School counselors; and
- 5 (H) Social workers;

6 (3) Treatment directly administered by the United States
 7 Department of Defense or any other federal agency; and

8 (4) Self-help or twelve-step programs such as Alcoholics
 9 Anonymous, Cocaine Anonymous, Narcotics Anonymous, Al-Anon, or Narc-Anon.

10 (c)(1) The office division shall license programs, other than
 11 methadone programs, that possess current unrestricted alcohol and drug abuse
 12 treatment program accreditation from the Joint Commission, the Commission on
 13 Accreditation of Rehabilitation Facilities, or the Council on Accreditation
 14 if the programs comply with the following license standards:

- 15 (A) Clinical supervision;
- 16 (B) Health and safety;
- 17 (C) Physical plant;
- 18 (D) Progress note development;
- 19 (E) Treatment plan development; and
- 20 (F) Treatment plan review.

21 (2)(A) This subsection does not apply to methadone treatment
 22 programs operating in the State of Arkansas.

23 (B) All methadone treatment programs shall be licensed by
 24 the office division.

25
 26 SECTION 33. Arkansas Code § 20-64-904(b)(1), concerning licenses for
 27 alcohol and drug abuse treatment programs, is amended to read as follows:

28 (b)(1) Any person or program desiring to be licensed as an alcohol and
 29 drug abuse treatment program shall make application to the ~~Office of Alcohol~~
 30 ~~and Drug Abuse Prevention of the~~ Division of Behavioral Health Services of
 31 the Department of Human Services on forms prescribed by the ~~office~~ division
 32 and shall furnish the application information required by the ~~office~~
 33 division.

34
 35 SECTION 34. Arkansas Code § 20-64-905(a), concerning renewal of
 36 licenses for alcohol and drug treatment programs, is amended to read as

1 follows:

2 (a) Each alcohol and drug abuse treatment program licensure shall be
3 renewed annually upon a payment of a fee of seventy-five dollars (\$75.00) by
4 January 30 of each year to the ~~Bureau of Alcohol and Drug Abuse Prevention~~
5 Division of Behavioral Health.

6

7 SECTION 35. Arkansas Code § 20-64-906 is amended to read as follows:
8 20-64-906. Disposition of funds.

9 (a) All application fees and accreditation costs will be paid to the
10 ~~Bureau of Alcohol and Drug Abuse Prevention~~ Division of Behavioral Health.

11 (b) The ~~bureau will~~ division shall transfer the money to the State
12 Treasury, and the money shall be specially designated for transfer to the
13 Public Health Fund to cover maintenance and operation expenses incurred by
14 the accreditation review process.

15

16 SECTION 36. Arkansas Code § 20-64-907 is amended to read as follows:
17 20-64-907. Reporting requirements.

18 (a) All persons, partnerships, associations, or corporations operating
19 alcohol and drug abuse treatment programs in the State of Arkansas, whether
20 licensed by the ~~Bureau of Alcohol and Drug Abuse Prevention~~ Division of
21 Behavioral Health or expressly exempted from licensure, shall be required to
22 furnish such information at such times and in such form as may be required by
23 the ~~bureau~~ division.

24 (b) The ~~bureau~~ division shall promulgate regulations and prescribe
25 forms for the implementation of this section.

26

27 SECTION 37. Arkansas Code § 20-64-908(a), concerning the appeals
28 process before the Arkansas Alcohol and Drug Abuse Coordinating Council, is
29 amended to read as follows:

30 (a) The Arkansas Alcohol and Drug Abuse Coordinating Council shall
31 have the power and authority to hear appeals regarding decisions by the
32 ~~Bureau of Alcohol and Drug Abuse Prevention~~ Division of Behavioral Health not
33 to license an alcohol, drug, or alcohol and drug abuse treatment program
34 under this subchapter.

35

36 SECTION 38. Arkansas Code § 20-64-910(c)(6), concerning membership on

1 the Task Force on Substance Abuse Treatment Services, is amended to read as
2 follows:

3 (6) One (1) member recommended by the ~~Office of Alcohol and Drug~~
4 ~~Abuse Prevention~~ Division of Behavioral Health;

5
6 SECTION 39. Arkansas Code § 20-64-1002(b)(1)(B), concerning the
7 membership of the Arkansas Alcohol and Drug Abuse Coordinating Council, is
8 amended to read as follows:

9 (B) The Director of the ~~Office of Alcohol and Drug Abuse~~
10 ~~Prevention~~ Division of Behavioral Health;

11
12 SECTION 40. Arkansas Code § 20-64-1002(d), concerning the Arkansas
13 Alcohol and Drug Abuse Coordinating Council, is amended to read as follows:

14 (d) The coordinating council may appoint noncouncil members for PEER
15 review of grants, and the PEER Review Committee members shall be entitled to
16 reimbursement for actual expenses and mileage to be paid by the ~~Office of~~
17 ~~Alcohol and Drug Abuse Prevention~~ Division of Behavioral Health from funds
18 appropriated for its maintenance and operation.

19
20 SECTION 41. Arkansas Code § 20-64-1003(e)(2), concerning the powers
21 and duties of the Arkansas Alcohol and Drug Abuse Coordinating Council, is
22 amended to read as follows:

23 (2) Committees shall include, but not be limited to, a
24 prevention, education, and treatment committee chaired by the Director of the
25 ~~Bureau of Alcohol and Drug Abuse Prevention~~ Division of Behavioral Health,
26 and a law enforcement committee.

27
28 SECTION 42. Arkansas Code § 20-64-1102(b)(4), concerning the
29 membership of the Task Force on Substance Abuse Prevention, is amended to
30 read as follows:

31 (4) Three (3) members recommended by the ~~Office of Alcohol and~~
32 ~~Drug Abuse Prevention~~ Division of Behavioral Health, to include one (1)
33 member representative of substance abuse prevention providers;

34
35 SECTION 43. Arkansas Code § 23-79-139(f), concerning the definition of
36 alcohol or drug dependency treatment facility, is amended to read as follows:

1 (f) For the purposes of this section, the term "alcohol or drug
2 dependency treatment facility" shall mean a public or private facility, or
3 unit in a facility, that is engaged in providing treatment twenty-four (24)
4 hours a day for alcohol or drug dependency or substance abuse, that provides
5 a program for the treatment of alcohol or other drug dependency pursuant to a
6 written treatment plan approved and monitored by a physician, and that is
7 also properly licensed or accredited to provide those services by the ~~Bureau~~
8 ~~of Alcohol and Drug Abuse Prevention of the Department of Health~~ Division of
9 Behavioral Health.

10
11 SECTION 44. Arkansas Code § 25-9-106(a), concerning the Community
12 Alcohol Safety Program, is amended to read as follows:

13 (a) On or after July 1, 1999, all powers, duties, functions, records,
14 and funds administered or provided by other support divisions within the
15 Arkansas State Highway and Transportation Department for the Traffic Safety
16 Section of the Programs and Contracts Division regarding or relating to the
17 state alcohol program, commonly known as the Community Alcohol Safety
18 Program, administered by the department pursuant to the laws of this state
19 and transferred to that department by Acts 1989, 1st Ex. Sess., No. 153,
20 shall be transferred by a type 2 transfer, as defined in § 25-2-105, to the
21 ~~Bureau of Alcohol and Drug Abuse Prevention of the Department of Health~~
22 Division of Behavioral Health.

23
24 SECTION 45. Arkansas Code § 25-9-107, concerning transfer of
25 personnel, is amended to read as follows:

26 25-9-107. Transfer of personnel pursuant to § 25-9-106.

27 All personnel transferred from the Arkansas State Highway and
28 Transportation Department pursuant to § 25-9-106 shall be eligible for
29 employment under this section in a comparable position with the ~~Bureau of~~
30 ~~Alcohol and Drug Abuse Prevention of the Department of Health~~ Division of
31 Behavioral Health.

32
33 SECTION 46. Arkansas Code § 25-10-102(a)(1)-(3), concerning the
34 organization of the Department of Human Services, is amended to read as
35 follows:

36 (a) The Department of Human Services shall consist of and be operated

1 under an integrated service system consisting of the following divisions with
 2 responsibilities and programs assigned to them as determined by the Director
 3 of the Department of Human Services:

4 (1)~~(A)~~ A Division of Aging and Adult Services.

5 ~~(B) The Division of Aging and Adult Services may include~~
 6 ~~the Office of Public Guardian for Adults;~~

7 (2) A Division of Medical Services;

8 (3) A Division of Behavioral Health, which shall include
 9 community mental health centers, and state hospitals, ~~and the Office of~~
 10 ~~Alcohol and Drug Abuse Prevention;~~

11
 12 SECTION 47. Arkansas Code § 26-57-257(k), concerning the agency
 13 responsible for ensuring full compliance with the Public Health Service Act,
 14 is amended to read as follows:

15 (k) The Director of Arkansas Tobacco Control shall recognize the
 16 ~~Office of Alcohol and Drug Abuse Prevention~~ Division of Behavioral Health as
 17 the agency responsible for ensuring full compliance with the Public Health
 18 Service Act, § 1926(b), 42 U.S.C. § 300x-26(b), and shall call upon
 19 administrative departments of the state, county, and city governments,
 20 sheriffs, city police departments, or other law enforcement officers for such
 21 information and assistance as the Director of Arkansas Tobacco Control may
 22 deem necessary in the performance of the duties imposed upon him or her by
 23 this subchapter.