

1 State of Arkansas As Engrossed: H1/31/19 H2/13/19

2 92nd General Assembly

# A Bill

3 Regular Session, 2019

HOUSE BILL 1102

4

5 By: Representative Sullivan

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## For An Act To Be Entitled

8 AN ACT TO ADDRESS THE UNDERSERVED STATUS OF A COUNTY  
9 AS A REQUIREMENT FOR LICENSURE AND CERTIFICATION AS A  
10 PROVIDER OF EARLY INTERVENTION DAY TREATMENT SERVICES  
11 TO CHILDREN AND NONRESIDENTIAL SERVICES TO ADULTS  
12 WITH DEVELOPMENTAL DISABILITIES; AND FOR OTHER  
13 PURPOSES.

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## Subtitle

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TO ADDRESS THE UNDERSERVED STATUS OF A  
18 COUNTY AS A REQUIREMENT FOR LICENSURE AND  
19 CERTIFICATION OF CERTAIN PROVIDERS.

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

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24 SECTION 1. DO NOT CODIFY. Legislative intent.

25 It is the intent of the General Assembly to:

26 (1) Reduce limitations for services related to child health  
27 management services and developmental day treatment clinic services for  
28 children or any successor program providing early intervention day treatment  
29 services to children;

30 (2) Reduce limitations for nonresidential services to adults  
31 with developmental disabilities; and

32 (3) Address the underserved status of a county as a requirement  
33 for licensure and certification as a provider of:

34 (A) Child health management services and developmental day  
35 treatment clinic services for children or any successor program providing  
36 early intervention day treatment services to children; and



1                    (B) Nonresidential services to adults with developmental  
2 disabilities.

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4            SECTION 2. Arkansas Code § 20-48-105 is repealed.

5            ~~20-48-105. Nonprofit community programs—Expansion of services.~~

6            ~~(a)(1) The intent of this section is to avoid unnecessary duplication~~  
7 ~~of costs and services in the expansion of nonresidential services to adults~~  
8 ~~with developmental disabilities.~~

9            ~~(2) A designation by the Division of Developmental Disabilities~~  
10 ~~Services of the Department of Human Services that a county is underserved~~  
11 ~~with regard to a specific category of nonresidential services to adults with~~  
12 ~~developmental disabilities establishes that an expansion of nonresidential~~  
13 ~~services to adults with developmental disabilities in the underserved county~~  
14 ~~is necessary.~~

15            ~~(b)(1) The division shall not issue a new license for operation of a~~  
16 ~~nonprofit community program or approve an application from a nonprofit~~  
17 ~~community program to implement additional nonresidential services to benefit~~  
18 ~~adults with developmental disabilities that are not currently offered by the~~  
19 ~~nonprofit community program unless the division has determined that:~~

20            ~~(A) The county in which the program seeks to operate is~~  
21 ~~underserved with regard to a specific category of nonresidential services~~  
22 ~~currently offered to adults with developmental disabilities and currently~~  
23 ~~funded from available state or federal funds; or~~

24            ~~(B)(i) The county in which the program seeks to operate is~~  
25 ~~underserved with regard to new services not currently available to adults~~  
26 ~~with developmental disabilities and the new services should be made available~~  
27 ~~to benefit adults with developmental disabilities.~~

28            ~~(ii) State or federal funds are available in amounts~~  
29 ~~necessary to support the delivery of new services not currently available to~~  
30 ~~adults with developmental disabilities.~~

31            ~~(2)(A) The division shall provide written notice by certified~~  
32 ~~mail of its designation under subdivision (b)(1) of this section to all~~  
33 ~~nonprofit community programs with existing operations in the county~~  
34 ~~designated by the division as underserved.~~

35            ~~(B) If nonprofit community programs with existing~~  
36 ~~operations in the county that do not currently offer the specific category of~~

1 ~~nonresidential services identified by the division as underserved determine~~  
2 ~~not to expand the identified nonresidential service to adults with~~  
3 ~~developmental disabilities in the underserved county, the division shall~~  
4 ~~provide written notice by certified mail of its designation under subdivision~~  
5 ~~(b)(1) of this section to all nonprofit community programs in the remainder~~  
6 ~~of the state.~~

7 ~~(C) If all nonprofit community programs in the remainder~~  
8 ~~of the state determine not to expand the identified nonresidential service to~~  
9 ~~adults with developmental disabilities in the underserved county, the~~  
10 ~~division shall provide notice to the general public in a newspaper of~~  
11 ~~statewide general circulation.~~

12 ~~(c) In granting an approval under this section, the division shall~~  
13 ~~give approval in the following order of preference:~~

14 ~~(1) A qualified nonprofit community program with existing~~  
15 ~~operations in the county that does not currently offer the specific category~~  
16 ~~of nonresidential services to adults with developmental disabilities~~  
17 ~~identified by the division as underserved;~~

18 ~~(2) A qualified nonprofit community program from another county~~  
19 ~~in the state;~~

20 ~~(3) An accredited nonprofit entity in the underserved county;~~

21 ~~(4) An accredited nonprofit entity from another county in the~~  
22 ~~state; and~~

23 ~~(5) An accredited nonprofit entity from outside the state.~~

24 ~~(d)(1)(A) A license from the division is required for operation of a~~  
25 ~~nonprofit community program.~~

26 ~~(B) A qualified nonprofit community program is required to~~  
27 ~~apply to and obtain the approval of the division to implement additional~~  
28 ~~nonresidential services to adults with developmental disabilities that are~~  
29 ~~not currently offered by the qualified nonprofit community program.~~

30 ~~(2)(A) If an application is approved, the division shall issue a~~  
31 ~~new license or service expansion approval if it finds that the proposed~~  
32 ~~nonresidential service expansion meets the criteria for approval established~~  
33 ~~by the division.~~

34 ~~(B) If the application is denied, the division shall send~~  
35 ~~written notice of the denial to the applicant that sets forth the criteria~~  
36 ~~that the proposed nonresidential service expansion failed to meet.~~

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SECTION 3. Arkansas Code §§ 20-48-1104 – 20-48-1106 are repealed.

~~20-48-1104. Determination of underserved status for expansion of services.~~

~~(a) An expansion of early intervention day treatment services in a county is necessary when the Division of Developmental Disabilities Services of the Department of Human Services determines that a county is underserved with regard to:~~

~~(1) Early intervention day treatment services; or~~

~~(2) A specific category of early intervention day treatment services currently offered to children with developmental disabilities or delays.~~

~~(b) As a condition of the issuance of a new certification to operate a child health management services program, a new license to operate a developmental day treatment clinic services program for children, or a new certification or license for a successor program, the division must determine that a county of the state is underserved in accordance with subsection (a) of this section.~~

~~(c)(1) The division shall have sixty (60) days from the date of an application for expansion of early intervention day treatment services in which to determine whether a county is underserved under subsection (a) of this section.~~

~~(2)(A) The division shall provide the applicant with a written report of its findings and conclusions by certified mail.~~

~~(B) The division shall provide a copy of the report to the appropriate licensing or certification authority of the applicant.~~

~~(3) If the division determines that the county is not underserved under subsection (a) of this section, the applicant shall have thirty (30) days from the date of the applicant's receipt of the written report in which to appeal the determination to the Office of Appeals and Hearings of the Department of Human Services under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.~~

~~20-48-1105. Order of priority for granting approval.~~

~~(a) When considering an application for approval under this subchapter for expansion of early intervention day treatment services, including child~~

1 ~~health management services, developmental day treatment clinic services for~~  
2 ~~children, or any successor program services, the Division of Developmental~~  
3 ~~Disabilities Services of the Department of Human Services shall give approval~~  
4 ~~in the following order of preference:~~

5 ~~(1) A certified child health management services, a licensed~~  
6 ~~developmental day treatment clinic services for children, or a successor~~  
7 ~~program with existing operations in the county identified by the division as~~  
8 ~~underserved;~~

9 ~~(2) A certified child health management services program, a~~  
10 ~~licensed developmental day treatment clinic services for children, or a~~  
11 ~~successor program from another county in the state;~~

12 ~~(3) An accredited entity in the underserved county;~~

13 ~~(4) An accredited entity from another county in the state; and~~

14 ~~(5) An accredited entity from outside the state.~~

15 ~~(b) The division shall not require accreditation of the following~~  
16 ~~entities in order to approve the entity's application for expansion of early~~  
17 ~~intervention day treatment services under this subchapter:~~

18 ~~(1) A certified child health management services program with~~  
19 ~~existing operations on July 1, 2013;~~

20 ~~(2) A licensed nonprofit community program providing~~  
21 ~~developmental day treatment services for children with existing operations on~~  
22 ~~July 1, 2013;~~

23 ~~(3) A successor program that was a certified child health~~  
24 ~~management services program with existing operations on July 1, 2013; or~~

25 ~~(4) A successor program that was a licensed nonprofit community~~  
26 ~~program providing developmental day treatment services for children with~~  
27 ~~existing operations on July 1, 2013.~~

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29 ~~20-48-1106. Notice of underserved area.~~

30 ~~(a) The Division of Developmental Disabilities Services of the~~  
31 ~~Department of Human Services shall provide written notice by certified mail~~  
32 ~~of its designation under § 20-48-1104 to all child health management services~~  
33 ~~programs, developmental day treatment clinic services programs for children,~~  
34 ~~and successor programs with existing operations in the county designated by~~  
35 ~~the division as underserved.~~

36 ~~(b) If all child health management services programs, developmental~~

~~1 day treatment clinic services programs for children, and successor programs  
2 with existing operations in the county designated by the division as  
3 underserved determine not to expand early intervention day treatment  
4 services, including child health management services, developmental day  
5 treatment clinic services for children, or successor program services in the  
6 underserved county, the division shall provide written notice by certified  
7 mail of its designation under § 20-48-1104 to all providers of child health  
8 management services, developmental day treatment clinic services for  
9 children, and any successor program services in the remainder of the state.~~

~~10 (c) If all child health management services programs, developmental  
11 day treatment clinic services programs for children, and successor programs  
12 in the remainder of the state determine not to expand early intervention day  
13 treatment services, including child health management services, developmental  
14 day treatment clinic services for children, or successor program services in  
15 the underserved county, the division shall provide notice to the general  
16 public in a newspaper of statewide general circulation.~~

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18 SECTION 4. Arkansas Code Title 20, Chapter 48, Subchapter 1, is  
19 amended to add an additional section to read as follows:

20 20-48-106. Rules for closure, sale, transfer, and expansion of certain  
21 facilities and services.

22 (a) The Division of Developmental Disabilities Services of the  
23 Department of Human Services shall promulgate rules regarding standards of  
24 operations and for the closure, sale, transfer, or expansion of the facility  
25 of or services provided by a provider of:

26 (1) Child health management services and developmental day  
27 treatment clinic services for children or any successor program providing  
28 early intervention day treatment services to children; or

29 (2) Nonresidential services to adults with developmental  
30 disabilities, including adult developmental day treatment providers.

31 (b)(1) When adopting the initial rules to implement this section, the  
32 final rule shall be filed with the Secretary of State for adoption under §  
33 25-15-204(f):

34 (A) On or before August 1, 2019; or

35 (B) If approval under § 10-3-309 has not occurred by  
36 August 1, 2019, as soon as practicable after approval under § 10-3-309.

1                   (2) The division shall file the proposed rule with the  
2 Legislative Council under § 10-3-309(c) sufficiently in advance of August 1,  
3 2019, so that the Legislative Council may consider the rule for approval  
4 before August 1, 2019.

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/s/Sullivan