

Stricken language would be deleted from and underlined language would be added to present law.
Act 1107 of the Regular Session

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H3/19/13
A Bill

HOUSE BILL 1499

By: Representative H. Wilkins

For An Act To Be Entitled

AN ACT TO REMOVE THE OFFICE OF ALCOHOL AND DRUG ABUSE
PREVENTION FROM THE ARKANSAS CODE; AND FOR OTHER
PURPOSES.

Subtitle

TO REMOVE THE OFFICE OF ALCOHOL AND DRUG
THE FOLLOWING: ABUSE PREVENTION FROM THE
ARKANSAS CODE.

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

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

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

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

(a) The ~~Director of the Office of Alcohol and Drug Abuse Prevention~~ Division of Behavioral Health Services shall carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs he or she may:



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

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

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

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

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

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

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

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

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

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

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

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

(3) Enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of

conducting research, demonstrations, or special projects that bear directly on misuse and abuse of controlled substances.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3)(A)(i) The alcohol and driving education program may collect a program fee of up to one hundred twenty-five dollars (\$125) per enrollee to offset program costs.

(ii) An underage person ordered to complete an

alcohol and driving education program or an alcoholism treatment program under this section may be required to pay, in addition to the costs collected for the program, a fee of up to twenty-five dollars (\$25.00) to offset the additional costs associated with reporting requirements under this subchapter.

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

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

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

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

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

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

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

SECTION 10. Arkansas Code § 9-28-407(a)(5)(A)(iii), concerning licenses for child welfare agencies, is amended to read as follows:

(iii) The licensee is licensed by the ~~Office of Alcohol and Drug Abuse Prevention~~ Division of Behavioral Health Services or

its successor; and

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

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

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

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

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

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

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

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

(2) The Public Health Fund and the Drug Abuse Prevention and Treatment Fund for use in the drug abuse prevention and treatment program of the ~~Office of Alcohol and Drug Abuse Prevention~~ Division of Behavioral Health Services;

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

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

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

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

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

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

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

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

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

(4)(A) "Hospital" means a public health center, a general, tuberculosis, mental, or chronic disease hospital, or a related facility such as a laboratory, outpatient department, nurses home or training facility, or 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 Services 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 Services 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 Behavioral Health Services – Powers and duties.

(a) ~~The Bureau of Alcohol and Drug Abuse Prevention~~ Division of

Behavioral Health Services shall:

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

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

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

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

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

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

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

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

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

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

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

division;

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

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

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

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

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

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

(13) Establish and apply criteria for evaluation of:

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

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

(14) Specify uniform methods for keeping statistical information on all individuals receiving services related to the use or misuse of alcohol and drugs and also develop and maintain a centralized data collection and dissemination system for alcohol and drug abuse programs and activities

consistent with federal and state statutes and regulations;

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

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

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

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

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

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

(21) Maintain a liaison with all state and local agencies concerned with drug traffic prevention;

(22) Conduct annual site visits to all state and federally

funded alcohol and drug abuse programs and facilities to determine their compliance with the standards, rules, and regulations for accrediting, certifying, and licensing as set forth in subdivision (19) of this section;

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

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

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

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

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

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

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

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

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

20-64-705. ~~Bureau of Alcohol and Drug Abuse Prevention~~ Division of

Behavioral Health Services – Power to accept gifts.

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

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

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

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

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

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

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

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

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

20-64-707. ~~Bureau of Alcohol and Drug Abuse Prevention~~ Division of

Behavioral Health Services – Cooperation by other departments.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The ~~office~~ division shall assign contractors to

conduct screenings and assessments under this subdivision (b)(1).

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

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

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

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

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

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

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

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

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

(b)(1) The ~~Bureau of Alcohol and Drug Abuse Prevention~~ Division of Behavioral Health Services shall promulgate rules specifying the amounts to

be fixed as costs and establishing procedures for implementation of this section.

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

20-64-901. Purpose.

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

SECTION 32. Arkansas Code § 20-64-903 is amended to read as follows:

20-64-903. Authority – Exemptions – Current programs.

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

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

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

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

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

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

- (A) Attorneys;*
- (B) Counselors;*
- (C) Nurses;*

- (D) Physicians;
- (E) Psychological examiners;
- (F) Psychologists;
- (G) School counselors; and
- (H) Social workers;

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

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

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

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

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

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

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

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

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

follows:

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

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

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

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

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

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

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

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

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

SECTION 38. Arkansas Code § 20-64-910(c)(6), concerning membership on the Task Force on Substance Abuse Treatment Services, is amended to read as follows:

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

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

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

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

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

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

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

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

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

SECTION 43. Arkansas Code § 23-79-139(f), concerning the definition of

alcohol or drug dependency treatment facility, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

SECTION 48. DO NOT CODIFY. The Arkansas Code Revision Commission shall make appropriate name changes in the Arkansas Code to implement the name change under Section 46 of this act.

/s/H. Wilkins

APPROVED: 04/11/2013