

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

# A Bill

HOUSE BILL 1166

By: Representative A. Davis

By: Senator Hester

## For An Act To Be Entitled

AN ACT TO CREATE THE TRANSFORMATION AND EFFICIENCIES ACT OF 2019; TO ESTABLISH CABINET-LEVEL DEPARTMENTS; TO ESTABLISH THE CABINET-LEVEL DEPARTMENT OF HUMAN SERVICES; TO TRANSFER STATE ENTITIES; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

TO CREATE THE TRANSFORMATION AND EFFICIENCIES ACT OF 2019; TO ESTABLISH CABINET-LEVEL DEPARTMENTS; TO ESTABLISH THE CABINET-LEVEL DEPARTMENT OF HUMAN SERVICES; TO TRANSFER STATE ENTITIES; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

### Subchapter 9 – Department of Human Services

#### 25-43-901. Department of Human Services.

There is created the Department of Human Services as a cabinet-level department.

25-43-902. State entities transferred to the Department of Human Services.



(a) The administrative functions of the following state entities are transferred to the Department of Human Services:

(1) Arkansas Alcohol and Drug Abuse Coordinating Council, created under § 20-64-1002;

(2) Arkansas Drug Director, created under § 20-64-1001;

(3) Arkansas State Council for Interstate Juvenile Supervision, created under § 9-29-401;

(4) Board of Developmental Disabilities Services, created under § 20-48-203;

(5) Civilian Student Training Program, created under § 12-61-124;

(6) Division of Aging, Adult, and Behavioral Services of the Department of Human Services, created under § 20-46-301;

(7) Division of Child Care and Early Childhood Education, created under § 20-78-205;

(8) Division of Children and Family Services, created under §§ 9-28-102 and 25-10-102;

(9) Division of County Operations, created under § 25-10-102;

(10) Division of Developmental Disabilities Services, created under § 25-10-102;

(11) Division of Medical Services, created under § 25-10-102;

(12) Division of Provider Services and Quality Assurance, created under § 25-10-102;

(13) Division of Youth Services, created under §§ 9-28-202 and 25-10-102; and

(14) Youth Justice Reform Board, created under § 9-28-1201.

(b) Each state entity transferred will retain its specified statutory powers and duties.

(c) State entities created as divisions of the Department of Human Services prior to the creation of the cabinet-level department shall continue to exercise the duties of the divisions under the administration of the cabinet-level Department of Human Services in the same manner as before the creation of the cabinet-level department.

25-43-903. Secretary of the Department of Human Services.

(a) The executive head of the Department of Human Services shall be

the Secretary of the Department of Human Services.

(b) The secretary shall be appointed by the Governor with the consent of the Senate and shall serve at the pleasure of the Governor.

(c) The secretary may delegate his or her functions, powers, and duties to personnel of the Department of Human Services as he or she shall deem desirable and necessary for the effective and efficient operation of the department.

25-43-904. Civilian Student Training Program.

(a) There is created within the Department of Human Services the Civilian Student Training Program.

(b) Juvenile participants in the Civilian Student Training Program at Camp Joseph T. Robinson receiving services from the Arkansas National Guard are authorized to receive a monetary stipend, not to exceed ten dollars (\$10.00) per week to defray personal hygiene and other personal necessities.

(b) Juvenile participants are authorized to receive uniforms and clothing items as determined by the staff to be appropriate for effective participation in outdoor activities.

(c) Transportation to support Civilian Student Training Program activities for juvenile participants and staff may be provided by commercial lease or purchase of motor vehicles not to exceed six (6) vehicles.

SECTION 2. Arkansas Code § 5-2-315(a), concerning the discharge or conditional release from psychiatric or psychological care, is amended to read as follows:

(a)(1)(A) When the ~~Director~~ Secretary of the Department of Human Services or his or her designee determines that a person acquitted has recovered from his or her mental disease or defect to such an extent that his or her release or his or her conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would no longer create a substantial risk of bodily injury to another person or serious damage to the property of another person, the ~~director~~ secretary shall promptly file an application for discharge or conditional release of the person acquitted with the circuit court that ordered the commitment.

(B) In addition, if the person acquitted has an impairment due to alcohol or substance abuse, the ~~director~~ secretary may petition the

circuit court for involuntary commitment under § 20-64-815.

(2) The ~~director~~ secretary shall send a copy of the application to the counsel for the person acquitted and to the attorney for the state.

SECTION 3. Arkansas Code § 5-2-315(f)(1), concerning the discharge or conditional release from psychiatric or psychological care, is amended to read as follows:

(f)(1) Regardless of whether the ~~director~~ secretary or his or her designee has filed an application pursuant to a provision of subsection (a) of this section, and at any time during the commitment of the person acquitted, a person acquitted, his or her counsel, or his or her legal guardian may file with the circuit court that ordered the commitment a motion for a hearing to determine whether the person acquitted should be discharged from the facility in which the person acquitted is committed.

SECTION 4. Arkansas Code § 5-2-316(a)(1), concerning the conditional release and the subsequent discharge, modification, or revocation of the conditional release, is amended to read as follows:

(a)(1) The ~~Director~~ Secretary of the Department of Human Services or his or her designee or a person conditionally released under § 5-2-315, or both, may apply to the court ordering the conditional release for discharge from or modification of the order granting conditional release on the ground that the person conditionally released under § 5-2-315 may be discharged or the order modified without danger to the person conditionally released under § 5-2-315 or to the person or property of another person.

SECTION 5. Arkansas Code § 5-2-316(b)(2)(A), concerning the conditional release and the subsequent discharge, modification, or revocation of the conditional release, is amended to read as follows:

(2)(A) If an order is entered revoking the most recent order of conditional release under subdivision (b)(1) of this section, all conditions of the release shall be abated, and the person shall be ordered to be committed to the custody of the ~~director~~ secretary or the ~~director's~~ secretary's designee.

SECTION 6. Arkansas Code § 5-2-317(a), concerning the jurisdiction of

a circuit court over a person acquitted by reason of mental disease or defect and the venue for a hearing, is amended to read as follows:

(a) A circuit court has exclusive jurisdiction over a person acquitted by reason of mental disease or defect and committed to the custody of the ~~Director~~ Secretary of the Department of Human Services pursuant to § 5-2-314(b).

SECTION 7. Arkansas Code § 5-55-104(a)-(e), concerning authorization for Medicaid by the Director of the Department of Human Services, are amended to read as follows:

(a) No potential Medicaid recipient is eligible for medical assistance unless he or she has authorized in writing the ~~Director~~ Secretary of the Department of Human Services to examine all records of the potential Medicaid recipient's own, or of those receiving or having received Medicaid benefits through him or her, whether or not the receipt of the benefits would be allowed by the Arkansas Medicaid Program, for the purpose of investigating whether any person may have committed the crime of Medicaid fraud or for use or potential use in any legal, administrative, or judicial proceeding.

(b) No person is eligible to receive any payment from the Arkansas Medicaid Program or its fiscal agents unless the person has authorized in writing the ~~director~~ secretary to examine all records for the purpose of investigating whether any person may have committed the crime of Medicaid fraud or for use or for potential use in any legal, administrative, or judicial proceeding.

(c) The Attorney General and the prosecuting attorneys are allowed access to all records of persons and Medicaid recipients under the Arkansas Medicaid Program to which the ~~director~~ secretary has access for the purpose of investigating whether any person may have committed the crime of Medicaid fraud or for use or potential use in any legal, administrative, or judicial proceeding.

(d) Notwithstanding any other law to the contrary, no person is subject to any civil or criminal liability for providing access to records to the ~~director~~ secretary, the Attorney General, or the prosecuting attorneys.

(e) Records obtained by the ~~director~~ secretary, the Attorney General, or the prosecuting attorneys pursuant to this subchapter are classified as confidential information and are not subject to outside review or release by

any individual except when records are used or potentially to be used by any government entity in any legal, administrative, or judicial proceeding.

SECTION 8. Arkansas Code § 5-55-110 is amended to read as follows:

5-55-110. Suspension of violators.

The ~~Director~~ Secretary of the Department of Human Services may suspend or revoke the provider agreement between the Department of Human Services and a person in the event the person is found guilty of violating a provision of this subchapter.

SECTION 9. Arkansas Code § 5-55-111(7)(B)(iii)(b), concerning criminal acts constituting Medicaid fraud, is amended to read as follows:

(b) In the case of an entity that is a provider of services as defined in § 20-9-101, the person discloses in such form and manner as the ~~Director~~ Secretary of the Department of Human Services requires to the entity and, upon request, to the ~~director~~ secretary, the amount received from each vendor with respect to purchases made by or on behalf of the entity; or

SECTION 10. Arkansas Code § 5-55-111(7)(B)(iv), concerning criminal acts constituting Medicaid fraud, is amended to read as follows:

(iv) Any payment practice specified by the ~~director~~ secretary promulgated pursuant to applicable federal or state law;

SECTION 11. Arkansas Code § 6-11-208(a)(1) and (2), concerning creation of multiagency task force for Regional Education Career Alternative School System for Adjudicated Youth, are amended to read as follows:

(a)(1) A multiagency task force, staffed and supported by the ~~Department~~ Division of Career Education, is established and shall consist of five (5) members, including:

- (A) The Commissioner of Education or his or her designee;
- (B) The Director of the ~~Department~~ Division of Career Education or his or her designee;
- (C) The Director of the ~~Department~~ Division of Higher Education or his or her designee;
- (D) The ~~Director~~ Secretary of the Department of Human

Services or his or her designee; and

(E) The Director of the ~~Department~~ Division of Workforce Services or his or her designee.

(2) Funding for the multiagency task force shall be provided by:

(A) The ~~Department~~ Division of Career Education; or

(B) Each agency that serves on the multiagency task force, in an equal amount.

SECTION 12. Arkansas Code § 9-27-310(c), concerning the commencement of proceedings, is amended to read as follows:

(c) Concurrent with filing, a copy of any petition that requests that the Department of Human Services take custody or provide family services shall be mailed to the ~~Director~~ Secretary of the Department of Human Services and to the attorney of the local Office of Chief Counsel of the Department of Human Services by the petitioner.

SECTION 13. Arkansas Code § 9-27-333(a), concerning the disposition of family service funds and limitations, is amended to read as follows:

(a) At least five (5) working days before ordering the Department of Human Services, excluding community-based providers, to provide or pay for family services, the circuit court shall fax a written notice of intent to the ~~Director~~ Secretary of the Department of Human Services and to the attorney of the local Office of Chief Counsel of the Department of Human Services.

SECTION 14. Arkansas Code § 9-27-335(a)(1), concerning the limitations on the disposition of family service funds, is amended to read as follows:

(a)(1) At least five (5) working days before ordering the Department of Human Services, excluding community-based providers, to provide or pay for family services in any case in which the department is not a party, the circuit court shall fax a written notice of intent to the ~~Director~~ Secretary of the Department of Human Services and to the attorney of the local office of chief counsel of the department.

SECTION 15. Arkansas Code § 9-28-119(b)(2), concerning the definitions in regard to the Department of Human Services' power to obtain information,

is amended to read as follows:

(2) The ~~Director~~ Secretary of the Department of Human Services may enter into cooperative agreements with other state agencies, businesses, or financial entities to provide direct online access to data information terminals, computers, or other electronic information systems.

SECTION 16. Arkansas Code § 9-28-202(b), concerning creation of the Division of Youth Services and the Director of the division of Youth Services of the Department of Human Services, is amended to read as follows:

(b) The Governor may appoint the Director of the Division of Youth Services of the Department of Human Services or may delegate that function to the ~~Director~~ Secretary of the Department of Human Services.

SECTION 17. Arkansas Code § 9-28-301(a), concerning the inspections, timing, report, and audit of facilities operated by the Division of Youth Services by the Director of the Department of Human Services, is amended to read as follows:

(a) In order to assure that juveniles committed to facilities operated by or under contract with the Division of Youth Services of the Department of Human Services are not subject to unsafe and unsanitary living conditions, the ~~Director~~ Secretary of the Department of Human Services or a duly authorized agent is authorized to enter the controlled premises and conduct random and unannounced health inspections of the facilities.

SECTION 18. Arkansas Code § 9-28-301(e) and (f), concerning the inspections, timing, report, and audit of facilities operated by the Division of Youth Services by Director of the Department of Human Services, are amended to read as follows:

(e)(1) The ~~Director~~ Secretary of the Department of Health shall present a list of findings of the random health inspections to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth within one (1) month after completing the random health inspections.

(2)(A) In the event the General Assembly is in session, the ~~Director~~ Secretary of the Department of Health shall provide the report to the House Committee on Aging, Children and Youth, Legislative and Military

Affairs and the Chair of the Senate Committee on Children and Youth.

(B) The complete report, including, but not limited to, statistics shall be made available to the public.

(f)(1) The ~~Director~~ Secretary of the Department of Human Services or the division shall file the report, along with a response not to exceed two (2) pages, to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth within thirty (30) days after receiving an inspection report prepared by the Department of Health.

(2) In the event the General Assembly is in session, the ~~Director~~ Secretary of the Department of Human Services shall provide the response to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Chair of the Senate Committee on Children and Youth.

(3) The response shall include a plan of correction and suggest a means by which the Department of Human Services or the division will correct any deficiencies within thirty (30) days of the filing of the report or within the time frame determined by the Department of Health to ensure the health and safety of the juveniles housed at the facility.

SECTION 19. Arkansas Code § 9-28-301(g)(4), concerning the inspections, timing, report, and audit of juvenile detention facilities operated by the Division of Youth Services by the Director of the Department of Human Services, is amended to read as follows:

(4) In the event the General Assembly is in session, the ~~Director~~ Secretary of the Department of Human Services shall provide the report to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Chair of the Senate Committee on Children and Youth.

SECTION 20. Arkansas Code § 9-28-301(h), concerning the inspections, timing, report, and audit of juvenile detention facilities operated by the Division of Youth Services by the Director of the Department of Human Services, is amended to read as follows:

(h) The ~~Director~~ Secretary of the Department of Human Services shall be required to close any facility when deficiencies are deemed by the Department of Health to be a danger to the health or safety of juveniles housed at such a facility.

SECTION 21. Arkansas Code § 9-28-302(f)(1) and (2), concerning security inspections of juvenile detention facilities operated by the Division of Youth Services, are amended to read as follows:

(f)(1) The ~~Director~~ Secretary of the Department of Human Services or the division shall file the report, along with a response not to exceed two (2) pages, to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth within thirty (30) days of receiving an inspection report prepared by the Department of Correction.

(2) In the event the General Assembly is in session, the ~~Director~~ Secretary of the Department of Human Services shall provide the response to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Chair of the Senate Committee on Children and Youth.

SECTION 22. Arkansas Code § 9-28-302(g)(3)(B), concerning security inspections of juvenile detention facilities operated by the Division of Youth Services, is amended to read as follows:

(B) In the event the General Assembly is in session, the ~~Director~~ Secretary of the Department of Human Services shall provide the report to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Chair of the Senate Committee on Children and Youth.

SECTION 23. Arkansas Code § 9-28-302(h), concerning security inspections of juvenile detention facilities operated by the Division of Youth Services, is amended to read as follows:

(h) The ~~Director~~ Secretary of the Department of Human Services shall be required to close any facility when deficiencies are deemed by the Department of Correction to be a danger to the health or safety of juveniles housed at such facility.

SECTION 24. Arkansas Code § 9-28-404(a)(1), concerning the composition of the Child Welfare Agency Review Board, is amended to read as follows:

(1) The director of the division within the Department of Human Services designated by the ~~Director~~ Secretary of the Department of Human Services to administer this subchapter or his or her designee;

SECTION 25. Arkansas Code § 9-28-1201(b)(2)(C), concerning the creation and membership of the Youth Justice Reform Board, is amended to read as follows:

(C) Representatives from the Department of Education, ~~Department~~ Division of Workforce Services, the Division of Children and Family Services of the Department of Human Services, and the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services;

SECTION 26. Arkansas Code § 9-29-204 is amended to read as follows:

9-29-204. ~~Director~~ Secretary of the Department of Human Services to determine when to discharge child.

As used in paragraph (a) of Article V of the Interstate Compact on the Placement of Children, the phrase "appropriate authority in the receiving state" with reference to this state means the ~~Director~~ Secretary of the Department of Human Services.

SECTION 27. Arkansas Code § 9-29-205 is amended to read as follows:

9-29-205. Agreements with other states pursuant to the compact.

The officers and agencies of this state and its subdivisions having authority to place children are empowered to enter into agreements with appropriate officers or agencies of or in other party states ~~pursuant to~~ under paragraph (b) of Article V of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision, or agency thereof shall not be binding unless it has the approval in writing of the ~~Director~~ Secretary of the Department of Human Services in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

SECTION 28. Arkansas Code § 9-31-201(3), concerning the definition of "director" under the assessment, diagnosis, evaluation, placement, and treatment services program, is repealed.

~~(3) "Director Secretary" means the Director Secretary of the Department of Human Services.~~

SECTION 29. Arkansas Code § 9-31-202(1)(B), concerning the objectives and duties of the ADEPT program, is amended to read as follows:

(B) The target population to be served by this type of program shall be defined by the ~~Director~~ Secretary of the Department of Human Services;

SECTION 30. Arkansas Code § 9-31-202(12)-(14), concerning the objectives and duties of the ADEPT program, are amended to read as follows:

(12) Submit monthly reports to the ~~director~~ secretary that include intake, closure, and follow-up data;

(13) Provide quarterly reports to the ~~director~~ secretary and to the Bureau of Legislative Research; and

(14) Submit an annual report to the ~~director~~ secretary and to the bureau summarizing the monthly reports and additional information, including, but not limited to, the types of problems identified, treatment services provided, and any identifiable service future needs.

SECTION 31. Arkansas Code § 9-32-206(a), concerning the provision of information and assistance from the divisions within the Department of Human Services, is amended to read as follows:

(a) The Division of Youth Services of the Department of Human Services, the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, and the Division of Children and Family Services of the Department of Human Services shall make available to the Senate Interim Committee on Children and Youth a list of all reports the unit submits to the ~~Director~~ Secretary of the Department of Human Services.

(b) Under the direction of the ~~director~~ secretary, the Division of Youth Services, the Division of Aging, Adult, and Behavioral Health Services, and the Division of Children and Family Services shall work cooperatively with and provide any necessary assistance to the Senate Interim Committee on Children and Youth.

SECTION 32. Arkansas Code § 10-3-2602(b)(3), concerning the creation of the Arkansas Legislative Task Force on Autism, is amended to read as follows:

(3) One (1) member who is an employee of the Division of Medical

Services of the Department of Human Services, appointed by the ~~Director~~ Secretary of the Department of Human Services;

SECTION 33. Arkansas Code § 10-3-2602(b)(12) and (13), concerning the creation of the Arkansas Legislative Task Force on Autism, are amended to read as follows:

(12) The Behavior Intervention Services Coordinator for the ~~Department of Education~~ Division of Primary and Secondary Education;

(13) The Associate Director of Special Education of the ~~Department of Education~~ Division of Primary and Secondary Education;

SECTION 34. Arkansas Code § 10-3-2802(b)(4), concerning the creation of the Interagency Task Force for the Implementation of Criminal Justice Prevention Initiatives, is amended to read as follows:

(4) One (1) member appointed by the ~~Director~~ Secretary of the Department of Human Services who represents the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services;

SECTION 35. Arkansas Code § 10-3-2901(b)(7), concerning the creation of the Specialty Court Program Advisory Committee, is amended to read as follows:

(7) The ~~Director~~ Secretary of the Department of Human Services or the ~~director's~~ secretary's designee;

SECTION 36. Arkansas Code § 12-12-1719 is amended to read as follows:

12-12-1719. Delegation of authority.

The ~~Director~~ Secretary of the Department of Human Services may assign responsibilities for administering the various duties imposed upon the Department of Human Services under this subchapter to respective divisions of the department that in the ~~director's~~ secretary's opinion are best able to render service or administer the provisions of this subchapter.

SECTION 37. Arkansas Code § 12-12-1723 is amended to read as follows:

12-12-1723. Rules.

The ~~Director~~ Secretary of the Department of Human Services may adopt

rules to implement this subchapter.

SECTION 38. Arkansas Code § 12-18-106(b), concerning cooperative agreements initiated by the Department of Human Services and the Department of Arkansas State Police, is amended to read as follows:

(b) The ~~Director~~ Secretary of the Department of Human Services may enter into cooperative agreements with other states to create a national child maltreatment registration system.

SECTION 39. Arkansas Code § 12-18-908(f), concerning the removal of a name from the Child Maltreatment Central Registry, is amended to read as follows:

(f) The ~~Director~~ Secretary of the Department of Human Services shall adopt rules necessary to carry out this chapter pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., except that the ~~director~~ secretary shall not begin the process under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., until the proposed rules have been reviewed by the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth.

SECTION 40. Arkansas Code § 15-4-3705(b)(2)(D), concerning the Arkansas Workforce Development Board committees, is amended to read as follows:

(D) The Director of the ~~Department~~ Division of Workforce Services; and

SECTION 41. Arkansas Code § 16-87-216(c)(13)(B)(i), concerning the Juvenile Ombudsman Division of the Arkansas Public Defender Commission, is amended to read as follows:

(i) The ~~Director~~ Secretary of the Department of Human Services and the Director of the Division of Youth Services of the Department of Human Services;

SECTION 42. Arkansas Code § 19-5-306(6)(A), concerning the Department of Human Services Administration Fund Account, is amended to read as follows:

(A) The Department of Human Services Administration Fund

Account shall be used for the maintenance, operation, and improvement required by the office of the ~~Director~~ Secretary of the Department of Human Services in carrying out the administrative duties and shared business services of the Department of Human Services as set out in and under the restrictions and provisions of § 20-46-301 and § 25-10-101 et seq.

SECTION 43. Arkansas Code § 19-5-953(b) and (c), concerning the Long-Term Care Trust Fund, are amended to read as follows:

(b) The Long-Term Care Trust Fund shall consist of all moneys and interest received from the imposition of civil penalties levied by the state on long-term care facilities found to be out of compliance with the requirements of federal or state law or regulations, there to be administered by the ~~Director~~ Secretary of the Department of Human Services solely for the protection of the health or property of residents of long-term care facilities, including, but not limited to, the payment for the costs of relocation of residents to other facilities, maintenance and operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

(c) Funds from the Long-term Care Trust Fund may also be administered by the ~~Director~~ Secretary of the Department of Human Services for programs or uses that, in the determination of the Director of the Office of Long-Term Care, enhance the quality of life for long-term care facility residents through the adoption of principles and building designs established by the Eden Alternative, Inc., or Green House Project programs or other means.

SECTION 44. Arkansas Code § 19-5-1020(d), concerning the Department of Human Services Renovation Fund, is amended to read as follows:

(d)(1) At the request of the ~~Director~~ Secretary of the Department of Human Services and upon certification of the availability of such funds, the Chief Fiscal Officer of the State shall initiate the necessary transfer documents to reflect the transfer on the books of record of the Treasurer of State, the Auditor of State, the Chief Fiscal Officer of the State, and the department.

(2) The ~~director~~ secretary shall submit any transfer plan to and must receive approval of the plan from the Chief Fiscal Officer of the State, the Governor, and the Legislative Council prior to the effective date of the

transfer.

SECTION 45. Arkansas Code § 19-5-1047(d)(2), concerning definitions under the Arkansas Medicaid Rebate Program Revolving Fund Act of 1991, is amended to read as follows:

(2) Any moneys accruing to the department through these rebates shall be deposited into the State Treasury as nonrevenue receipts to be credited to the fund and transferred by the ~~Director~~ Secretary of the Department of Human Services to the Department of Human Services Medicaid Paying Accounts Account to be used solely for paying pharmacy claims in the Arkansas Medicaid Drug Rebate Program.

SECTION 46. Arkansas Code § 19-5-1077(b), concerning the Client Specific Emergency Services Revolving Fund Paying Account of the Office of Finance and Administration, is amended to read as follows:

(b) The account shall be established and maintained in accordance with procedures established by the Chief Fiscal Officer of the State for cash funds and shall be administered under the direction of the ~~Director~~ Secretary of the Department of Human Services.

SECTION 47. Arkansas Code § 19-7-606 is amended to read as follows:

19-7-606. Transfer of reimbursements.

The ~~Director~~ Secretary of the Department of Human Services is authorized to transfer from the Department of Human Services federal funds as designated by the Chief Fiscal Officer of the State to the appropriate state fund account those federal funds recovered as reimbursement for indirect costs which are not required to be transferred to the Constitutional Officers Fund or State Central Services Fund pursuant to this subchapter.

SECTION 48. Arkansas Code § 19-7-701(a) and (b), concerning contract services and advance payment, are amended to read as follows:

(a) In order to provide effective purchased services to the needy citizens of Arkansas, the ~~Director~~ Secretary of the Department of Human Services is authorized to pay one-twelfth (1/12) of the total amount of a Title XX contract to the service provider on the effective date of the contract. The amount of the advance payment shall be adjusted out of the

reimbursement actually earned by the provider during the contract period.

(b) This section will be used only after the ~~director~~ secretary has conducted a study of the financial condition of the contracting agency to determine if an advance payment is necessary. If the advance is necessary, the ~~director~~ secretary shall forward his or her request and the reasons therefor to the Chief Fiscal Officer of the State for approval.

SECTION 49. Arkansas Code § 19-7-703(a), concerning loan provisions for the Department of Human Services, is amended to read as follows:

(a) It is found and determined that the continued operations of the Title XX Services Program of the Department of Human Services, in accordance with the approved annual operations plan, are, from time to time, seriously impaired by either administrative oversights and delays by the United States Office of Grants Management or by the processes of federal fiscal year conversion. It is further found and determined that such delays in the proper preparation and transmittal of federal grant award authorizations and letter of credit instruments have created unnecessary hardships on the providers of services and the needy citizens of this state. Therefore, upon certification of the pending availability of federal funding by the ~~Director~~ Secretary of the Department of Human Services, the Chief Fiscal Officer of the State may grant temporary advances, the maximum amount not to exceed five million dollars (\$5,000,000), from the Budget Stabilization Trust Fund to the appropriate account of the Department of Human Services so affected by such delays.

SECTION 50. Arkansas Code § 19-7-705 is amended to read as follows:

19-7-705. Use of funds.

The ~~Director~~ Secretary of the Department of Human Services is authorized to use funds earned through service fees, audit settlements, or federal program settlements for operation of the Title XX service program. Any unanticipated federal funding received under this provision will be handled in accordance with the terms of the Miscellaneous Federal Grant Act, § 19-7-501 et seq.

SECTION 51. Arkansas Code § 19-7-706(a)(1), concerning the transfer of funds and appropriations, is amended to read as follows:

(a)(1) The ~~Director~~ Secretary of the Department of Human Services, in accordance with rules established by the Chief Fiscal Officer of the State, shall have the authority to transfer funds and appropriations from the appropriate division of the Department of Human Services to the various agencies of the department which receive allotments of Title XX funds. These transfers shall be limited to the allotment of funds available to each agency within the department.

SECTION 52. Arkansas Code § 19-7-706(b), concerning the transfer of funds and appropriations, is amended to read as follows:

(b) The Chief Fiscal Officer of the State and the ~~director~~ secretary shall cooperate to establish such fund accounts for deposit and disbursement of federal and local Title XX funds as are necessary for the orderly operation of a Title XX services program. The Chief Fiscal Officer of the State and the ~~director~~ secretary shall establish procedures for the transfers of funds necessary to make reimbursement to providers or to agency fund accounts in payment for eligible services. These procedures will include provision for use of state matching funds where appropriated by law.

SECTION 53. Arkansas Code § 20-3-104(b), concerning the creation of the Achieving a Better Life Experience Program Trust, is amended to read as follows:

(b) The cotrustees of the trust shall be the ~~Director~~ Secretary of the Department of Human Services, the Director of Arkansas Rehabilitation Services, and the Treasurer of State.

SECTION 54. Arkansas Code § 20-3-105(a)(1) and (2), concerning the administration, authority, and powers of the Achieving a Better Life Experience Program Committee, are amended to read as follows:

(1) The ~~Director~~ Secretary of the Department of Human Services, or his or her designee;

(2) The Director of Arkansas Rehabilitation Services of the ~~Department of Career Education~~ Division of Workforce Development, or his or her designee; and

SECTION 55. Arkansas Code § 20-8-602(a)(4), concerning creation and

members of the Alzheimer's Advisory Council, is amended to read as follows:

(4) Nine (9) members as follows:

(A) The ~~Director~~ Secretary of the Department of Health or his or her designee;

(B) The ~~Director~~ Secretary of the Department of Human Services or his or her designee;

(C) The Director of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services or his or her designee;

(D) The Director of the Arkansas Center for Health Improvement or his or her designee;

(E) The Director of the ~~Department~~ Division of Workforce Services or his or her designee; and

(F) Four (4) members appointed by the state chapter of the Alzheimer's Association to represent Arkansas families that have been affected by Alzheimer's disease.

SECTION 56. Arkansas Code § 20-9-221(b)(1) and (2), concerning confidential information received by the Department of Health, are amended to read as follows:

(b)(1) However, in the case of a specific written request by the deputy director of the appropriate division as determined by the ~~Director~~ Secretary of the Department of Human Services for information concerning a certain nursing home, information obtained during recent inspections of the home may be supplied in writing to the deputy director.

(2) This exception applies only to homes providing care for recipients of public welfare and is not to be construed as permitting the exchange of such information on all homes in the state but is specifically limited to those for which the deputy director of the appropriate division as determined by the ~~director~~ secretary has specific complaints.

SECTION 57. Arkansas Code § 20-10-101(6), concerning the definition of "director" under the laws governing long term care facilities and services, is repealed.

~~(6) "Director" means the Director of the Department of Human Services;~~

SECTION 58. Arkansas Code § 20-10-101(7), concerning the definition of "division" under the laws governing long term care facilities and services, is amended to read as follows:

(7) "Division" means the appropriate division as determined by the ~~Director~~ Secretary of the Department of Human Services;

SECTION 59. Arkansas Code § 20-10-202 is amended to read as follows:  
20-10-202. Creation.

There is created an Office of Long-Term Care within the appropriate division as determined by the ~~Director~~ Secretary of the Department of Human Services. The head of the office shall be appointed by the ~~director~~ Secretary of the Department of Human Services.

SECTION 60. Arkansas Code § 20-10-204(b)(2)(D), concerning notice of violation for a long-term care facility, is amended to read as follows:

(D) Amount of civil penalty or other administrative remedy, if any, imposed by the ~~Director~~ Secretary of the Department of Human Services; and

SECTION 61. Arkansas Code § 20-10-207(a), concerning the notification to media of violations by a long-term care facility, is amended to read as follows:

(a) When the Office of Long-Term Care's appropriate division, as determined by the ~~Director~~ Secretary of the Department of Human Services, finds, upon inspection and investigation, that any nursing home or residential care facility has committed two (2) violations constituting Class A or Class B violations as ~~defined~~ set out in § 20-10-205 during any twelve-month period, the office shall notify the various news media within the county wherein the nursing home or residential care facility is located and shall advise the media that a complete record of the inspection and investigation will be available for public inspection at the office.

SECTION 62. Arkansas Code § 20-10-208(a) and (b), concerning hearings of the Department of Human Services, are amended to read as follows:

(a)(1) A licensee may contest an assessment of a civil penalty or any

administrative remedy imposed by the Office of Long-Term Care by sending a written request for a hearing to the ~~Director~~ Secretary of the Department of Human Services.

(2) Requests for hearings shall be received by the ~~Director~~ Secretary of the Department of Human Services within sixty (60) days after receipt by the licensee of the notice of violation and the assessment of any civil penalty or any administrative remedy imposed by the office.

(b)(1) The ~~Director~~ Secretary of the Department of Human Services shall assign the appeal to a fair and impartial hearing officer who shall not be a full-time employee of the Department of Human Services.

(2) The hearing officer shall preside over the hearing and make findings of fact and conclusions of law in the form of a recommendation to the ~~Director~~ Secretary of the Department of Human Services.

(3) The ~~Director~~ Secretary of the Department of Human Services shall review any recommendation and make the final decision. He or she:

(A) May approve the recommendation; or

(B) May for good cause:

(i) Modify the recommendation in whole or in part;

or

(ii)(a) Remand the recommendation for further proceedings as directed by him or her.

(b) If the recommendation is remanded, the hearing officer shall conduct further proceedings as directed by the ~~Director~~ Secretary of the Department of Human Services and shall submit an amended recommendation to the ~~Director~~ Secretary of the Department of Human Services.

(4) If the ~~Director~~ Secretary of the Department of Human Services modifies a recommendation, in whole or in part, or if the ~~Director~~ Secretary of the Department of Human Services remands the decision, he or she shall state in writing at the time of the remand or modification all grounds for the remand or modification, including statutory, regulatory, factual, or other grounds.

(5) The modification or approval of a recommendation by the ~~Director~~ Secretary of the Department of Human Services shall be the final agency action as provided by the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 63. Arkansas Code § 20-10-208(c)(3), concerning hearings of the Department of Human Services, are amended to read as follows:

(3) Unless the ~~Director~~ Secretary of the Department of Human Services acts on the recommendation of the hearing officer within sixty (60) days of receipt of the recommendation, the recommendation of the hearing officer shall be final.

SECTION 64. Arkansas Code § 20-10-208(d), concerning hearings of the Department of Human Services, is amended to read as follows:

(d) Except to the extent that it is inconsistent with federal law or regulation, a written request for a hearing shall stay until denied by the ~~Director~~ Secretary of the Department of Human Services any enforcement action imposed by the office pending the hearing and the final decision of the ~~Director~~ Secretary of the Department of Human Services.

SECTION 65. Arkansas Code § 20-10-209 is amended to read as follows:  
20-10-209. Disposition of funds.

(a)(1) There is established on the books of the Treasurer of State, Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the "Long-Term Care Trust Fund".

(2) The fund shall consist of all moneys and interest received from the imposition of civil penalties levied by the state on long-term care facilities found to be out of compliance with the requirements of federal or state law or regulations, there to be administered by the ~~Director~~ Secretary of the Department of Human Services solely for the protection of the health or property of residents of long-term care facilities, including, but not limited to, the payment for the costs of relocation of residents to other facilities, maintenance and operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

(b) Funds from the Long-Term Care Trust Fund may also be administered by the ~~Director~~ Secretary of the Department of Human Services for programs or uses that, in the determination of the Director of the Office of Long-Term Care, enhance the quality of life for long-term care facility residents through the adoption of principles and building designs established by the Eden Alternative, Inc. or Green House Project programs or other means.

SECTION 66. Arkansas Code § 20-10-905(d), concerning a petition for receivership, is amended to read as follows:

(d) The complaint and notice of hearing shall be served on the owner and administrator or licensee of the facility. In cases when the department is not the plaintiff in the action, a copy of the complaint and notice shall be forwarded by mail to the ~~Director~~ Secretary of the Department of Human Services by the plaintiff.

SECTION 67. Arkansas Code § 20-10-916(b), concerning the Long-Term Care Facility Receivership Fund Account, is amended to read as follows:

(b) The fund account established in this section shall be administered and disbursed under the direction of the ~~Director~~ Secretary of the Department of Human Services for the purpose of paying the expenses of receivers appointed under this subchapter.

SECTION 68. Arkansas Code § 20-10-1004(c)(1), concerning prohibiting new admissions to long-term care facilities, hearings, and appeals, is amended to read as follows:

(c)(1) The facility may request an immediate hearing by written request to the ~~Director~~ Secretary of the Department of Human Services.

SECTION 69. Arkansas Code § 20-10-1409(b)(1), concerning the staffing standards of the Office of Long-Term Care, is amended to read as follows:

(b)(1) If the ~~Director~~ Secretary of the Department of Human Services determines that the reimbursement methodology or available funding is insufficient or unable to pay for the minimum staffing standards under § 20-10-1403, the office, by regulation, may modify the requirements of § 20-10-1403 to ensure minimum staffing funds.

SECTION 70. Arkansas Code § 20-10-1409(c)(1)(A), concerning the staffing standards of the Office of Long-Term Care, is amended to read as follows:

(c)(1)(A) If the Director of the Office of Long-Term Care determines that minimum staffing standards should be increased pursuant to subdivision (b)(2) of this section, the Director of the Office of Long-Term Care shall

certify the determination and any proposed regulatory increases to minimum staffing standards to the Director of the Division of Medical Services of the Department of Human Services, who shall notify the ~~Director~~ Secretary of the Department of Human Services and the Legislative Council of the determination and whether sufficient appropriated funds exist to fund the costs to be incurred by the proposed changes to the minimum staffing standards.

SECTION 71. Arkansas Code § 20-10-2106 is amended to read as follows:  
20-10-2106. Rules.

The ~~Director~~ Secretary of the Department of Human Services shall adopt rules necessary to implement and administer this subchapter, including without limitation:

(1) Procedures for a long-term care facility to notify the Office of Long-Term Care of admissions; and

(2)(A) Procedures by which a person in a long-term care facility may decline options counseling for long-term care.

(B)(i) These procedures shall include a form promulgated by the Department of Human Services for use by a long-term care facility.

(ii) The form shall be limited to one (1) page and shall:

(a) Be orally read to the resident or, if applicable, the resident's representative by long-term care facility staff except as provided in this subdivision (2)(B)(ii);

(b) List the date;

(c) State the name of the resident or, if applicable, the resident's representative;

(d) Contain checkboxes indicating that:

(1) The office was notified of the admission;

(2) The form was not read orally to the resident or resident's representative because the resident lacks decisional capacity and does not have a representative; and

(3) The resident or the resident's representative declined the options counseling for long-term care;

(e) Contain a statement and an acknowledgment that options counseling for long-term care is an optional program and may be

declined by execution of the form;

(f) Be signed by the resident or, if applicable, the resident's representative; and

(g) Be retained by the long-term care facility in the resident's admission file for eighteen (18) months or until the next standard survey, whichever is longer.

SECTION 72. Arkansas Code § 20-14-203(a), concerning the ex officio members of the Governor's Commission on People with Disabilities, is amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Human Services, the deputy director of the appropriate division as determined by ~~Director~~ Secretary of the Department of Human Services, and the Director of the Department of Workforce Services or any director, commissioner, or administrator of successors' agencies shall serve as ex officio members of the Governor's Commission on People with Disabilities.

SECTION 73. Arkansas Code § 20-14-209 is amended to read as follows:  
20-14-209. Administrative support.

(a) The appropriate division as determined by the ~~Director~~ Secretary of the Department of Human Services or any other agency or division as the Governor shall designate shall provide administrative support to the Governor's Commission on People with Disabilities.

(b) A representative of the appropriate division as determined by the director or any other agency or division as the Governor shall designate shall be appointed as executive director to effect the coordination between the division and the Chair of the Governor's Commission on People with Disabilities in the arrangement of the support.

SECTION 74. Arkansas Code § 20-22-404 is amended to read as follows:  
20-22-404. Rules and regulations adopted by Office of Long-Term Care.

The Office of Long-Term Care of the appropriate division as determined by the ~~Director~~ Secretary of the Department of Human Services may adopt appropriate rules and regulations to carry out the purpose and intent of this subchapter.

SECTION 75. Arkansas Code § 20-46-105(d), concerning reports on emotionally disturbed youth by the Department of Human Services, is amended to read as follows:

(d) The deputy director of the appropriate division of the department as determined by the ~~Director~~ Secretary of the Department of Human Services shall certify by his or her signature that the information contained in these reports is correct to the best of his or her knowledge.

SECTION 76. Arkansas Code § 20-46-301(a) and (b), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, are amended to read as follows:

(a) The Department of Human Services shall have the authority and power to create and maintain the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services and to provide services for community mental health clinics and centers, which shall be administered through such divisions, offices, sections, or units of the Department Human Services as may be determined by the ~~Director~~ Secretary of the Department of Human Services.

(b) The Department of Human Services shall have the authority to establish or assist in the establishment and direction of those mental health clinics and centers in local and regional areas of the state which shall be operated under such divisions, offices, sections, or units of the Department Human Services as may be determined by the ~~director~~ secretary.

SECTION 77. Arkansas Code § 20-46-301(e)(2), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, are amended to read as follows:

(2) The ~~director~~ secretary shall have the authority to negotiate an employee leasing arrangement with the private nonprofit community mental health center as an ongoing contract to perform mental health services for the center. The arrangement shall provide, at a minimum:

(A) For reimbursement for all leased Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services employee financial obligations with respect to wages, employment taxes, and employee benefits of each employee providing services for the center and for reimbursement of administrative costs associated with the leased employees;

(B) That all leased employees are covered by workers' compensation insurance provided in conformance with laws of the state and which may be provided by either the Department of Human Services or the center;

(C) That all leased employees shall be limited to providing services to clients or in support of clients which are consistent with the goals and objectives of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services and the Department of Human Services;

(D) That the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services and the Department of Human Services shall not be vicariously liable for the liabilities of the center, whether contractual or otherwise;

(E) That the center shall provide liability insurance for the employees and indemnify the state for any actions of the employees; and

(F) That the leasing arrangement shall not be effective for a period of time to exceed each state fiscal biennium and that payment and performance obligations of the arrangement are subject to the availability and appropriation of funds for the employees' salaries and other benefits.

SECTION 78. The introductory language of Arkansas Code § 20-46-303, concerning the standards for community mental health clinics, is amended to read as follows:

In approving or rejecting community mental health clinics for the purpose of mental health services, the ~~Director~~ Secretary of the Department of Human Services shall consider the following factors:

SECTION 79. The introductory language of Arkansas Code § 20-46-309, concerning the composition and qualifications of staff and boards at community mental health centers, is amended to read as follows:

The ~~Director~~ Secretary of the Department of Human Services shall require the following as to the composition and professional qualifications of the clinic or center staff and control and direction of the clinic or center:

SECTION 80. Arkansas Code § 20-46-310 is amended to read as follows:  
20-46-310. Duty to provide screenings and evaluation studies.

Mental health centers in this state, whether local or regional, which have been approved by the ~~Director~~ Secretary of the Department of Human Services shall provide, upon request of the courts of record in this state, screening and evaluation studies of such persons as shall be referred to the mental health center or clinic by the court.

SECTION 81. Arkansas Code § 20-46-601(b), concerning the tracking and treatment of persons suffering from mental illness and substance abuse, is amended to read as follows:

(b) For purposes of this section, "client" means a person diagnosed to be addicted to drugs or alcohol who has been committed to the custody of the ~~Director~~ Secretary of the Department of Human Services pursuant to § 5-2-314 as a result of acquittal, on the ground of mental disease or defect, of an offense involving bodily injury to another person or serious risk of such injury.

SECTION 82. Arkansas Code § 20-46-702(a)(3), concerning the definition of "director" under the laws governing the Department of Human Services, is repealed.

~~(3) "Director" means the Director of the Department of Human Services or his or her designee;~~

SECTION 83. Arkansas Code § 20-46-703(d), concerning surveys of program providers for the Department of Human Services, is amended to read as follows:

(d) The ~~Director~~ Secretary of the Department of Human Services shall ensure that the department complies with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and with § 20-77-107 in regard to all surveys of program providers.

SECTION 84. Arkansas Code § 20-47-505(a)(2), concerning the Child and Adolescent Service System Program Coordinating Council, is amended to read as follows:

(2) The council shall include the following persons to be

selected and appointed by the Commissioner of Education and the ~~Director~~ Secretary of the Department of Human Services:

(A) At least three (3) parents, parent surrogates, or family members of a child or children with emotional disturbance;

(B) A member of an ethnic minority;

(C) A child advocate;

(D) Child and Adolescent Service System Program coordinators from each of the certified community mental health centers;

(E)(i) One (1) or more representatives from specific divisions or agencies in the Department of Human Services and the Department of Education.

(ii) Each representative shall have official duties related to the delivery of behavioral health services for children and adolescents with emotional disturbances.

(iii) Specific designations of membership of the council shall be determined through interdepartmental and intradepartmental agreements that will be renewed on an annual basis; and

(F)(i) At least seven (7) representatives from private or public agencies or organizations that are stakeholders in behavioral health services for children and adolescents with emotional disturbances.

(ii) The commissioner and the ~~director~~ secretary shall jointly appoint an appropriate number of stakeholders.

SECTION 85. Arkansas Code § 20-47-505(b)(1), concerning the Child and Adolescent Service System Program Coordinating Council, is amended to read as follows:

(1) Advise and report to the commissioner and the ~~director~~ secretary on matters of policy and programs related to children with emotional disturbances and their families;

SECTION 86. Arkansas Code § 20-47-505(b)(6) and (7), concerning the Child and Adolescent Service System Program Coordinating Council, are amended to read as follows:

(6) Submit a statewide plan and budget recommendations to the commissioner and the ~~director~~ secretary on or before March 15 of each even-numbered year thereafter preceding the legislative session;

(7) Develop and recommend special projects to the commissioner and the ~~director~~ secretary;

SECTION 87. Arkansas Code § 20-47-505(b)(10), concerning the Child and Adolescent Service System Program Coordinating Council, is amended to read as follows:

(10) Make recommendations for corrective action plans to the commissioner and the ~~director~~ secretary in the event that a regional program planning team does not produce a timely regional plan that meets a plan of care or fails to implement the approved regional plan.

SECTION 88. Arkansas Code § 20-47-507(d), concerning staff for the Child and Adolescent Service System Program Coordinating Council, is amended to read as follows:

(d) The division's council staff shall provide an annual report summarizing program regional and coordinating council activities, strategic plans, and outcomes to the ~~Director~~ Secretary of the Department of Human Services and the Commissioner of Education each year on or before October 15.

SECTION 89. Arkansas Code § 20-47-510(d)(1)(A), concerning coordination, oversight, and annual reports regarding the Comprehensive Children's Behavioral Health System of Care Plan, is amended to read as follows:

(A) The Commissioner of Education and the ~~Director~~ Secretary of the Department of Human Services; and

SECTION 90. Arkansas Code § 20-47-510(e)(1)(A), concerning coordination, oversight, and annual reports regarding the Comprehensive Children's Behavioral Health System of Care Plan, is amended to read as follows:

(A) The commissioner, the Director of the Department of Health, and the ~~Director~~ Secretary of the Department of Human Services; and

SECTION 91. Arkansas Code § 20-48-202(5), concerning the definition of "director" under the Arkansas Intellectual Disabilities Act, is repealed.

~~(5) "Director" means the Director of the Department of Human~~

~~Services;~~

SECTION 92. Arkansas Code § 20-48-202(6), concerning the definition of "division" under the Arkansas Intellectual Disabilities Act, is amended to read as follows:

(6) "Division" means the Division of Developmental Disabilities Services of the Department of Human Services or the appropriate division as determined by the ~~Director~~ Secretary of the Department of Human Services;

SECTION 93. Arkansas Code § 20-48-210 is amended to read as follows:  
Services.

20-48-210. Deputy Director of the Division of Developmental Disabilities Services.

(a) There is created the office of the Deputy Director of the Division of Developmental Disabilities Services of the Department of Human Services. The deputy director shall be appointed by ~~and shall serve at the pleasure of~~ the Board of Developmental Disabilities Services with the approval of the Secretary of the Department of Human Services.

(b) The deputy director shall be a person of proven administrative ability and professional qualifications, preferably holding a Ph.D. or equivalent, but including at least a master's degree in psychology, education, social service, or other field of study approved by the board and shall have at least five (5) years' experience in intellectual disabilities services.

(c) The deputy director shall be the ~~executive secretary of the board~~ Director of the Board of Development Disabilities Services and shall maintain an official set of minutes of all board action.

(d) The deputy director shall be the executive officer of the Division of Developmental Disabilities Services and shall operate and manage the division, subject to the control of the board and the Secretary of the Department of Human Services.

(e) The board may delegate to the deputy director any powers of the board upon such terms and for such duration as the board shall specify.

SECTION 94. Arkansas Code § 20-64-602(b)(4), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services of the

Department of Human Services, is amended to read as follows:

(4) Serve in a liaison capacity between the state and local communities and the United States Government with respect to alcohol abuse and drug abuse programs and, subject to the approval of the ~~Director~~ Secretary 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;

SECTION 95. Arkansas Code § 20-64-602(b)(7), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, is amended to read as follows:

(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~~ secretary and the General Assembly;

SECTION 96. Arkansas Code § 20-64-602(b)(9), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, is amended to read as follows:

(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~~ secretary;

SECTION 97. Arkansas Code § 20-64-602(b)(15), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, is amended to read as follows:

(15) Prepare an annual report to coincide with appropriate federal reports to be submitted to the advisory council, the ~~director~~ secretary, and the Governor describing activities of the 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;

SECTION 98. Arkansas Code § 20-64-602(b)(19), concerning the powers and duties of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, is amended to read as follows:

(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~~ secretary, 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;

SECTION 99. Arkansas Code § 20-64-603 is amended to read as follows:

20-64-603. ~~Director~~ Secretary of the Department of Human Services – Administration of state plans.

The ~~Director~~ Secretary of the Department of Human Services shall be the single state authority and shall have primary responsibility for administering the state plan on alcohol abuse and alcoholism and the state plan on drug abuse prevention.

SECTION 100. Arkansas Code § 20-64-1001(a), concerning the Arkansas Drug Director, is amended to read as follows:

(a)(1) There is created within the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services ~~office of the Governor~~ a position of Arkansas Drug Director, ~~who shall serve at the pleasure of the Governor.~~

(2) ~~Effective at 12:01 a.m. on July 1, 2005, the position of Arkansas Drug Director is transferred to the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services~~ The Arkansas Drug Director shall be appointed by the Governor, and shall serve at the pleasure of the Governor.

(3) The Arkansas Drug Director shall report to the Secretary of the Department of Human Services.

SECTION 101. Arkansas Code § 20-64-1002(b)(1), concerning the Arkansas Alcohol and Drug Abuse Coordinating Council, is amended to read as follows:

(1) Thirteen (13) members of the coordinating council shall be administrative officers of the following agencies, or their appropriate designees, confirmed by gubernatorial appointment:

- (A) The Arkansas Drug Director, who shall serve as Chair of the Arkansas Alcohol and Drug Abuse Coordinating Council;
- (B) The Director of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services;
- (C) The Director of the ~~Department~~ Division of Arkansas State Police;
- (D) The Commissioner of Education;
- (E) The Director of the Arkansas Department of Transportation;
- (F) The Director of the ~~Department~~ Division of Correction;
- (G) The ~~Director~~ Secretary of the Department of Finance and Administration;
- (H) The Adjutant General of the Arkansas National Guard;
- (I) The Attorney General;
- (J) The ~~Executive~~ Director of the State Crime Laboratory;
- (K) The Director of the Office of Alcohol Testing of the Department of Health;
- (L) The Director of the Administrative Office of the Courts; and
- (M) The Director of the ~~Department~~ Division of Community Correction; and

SECTION 102. Arkansas Code § 20-76-211 is amended to read as follows:

20-76-211. ~~Director's office~~ Secretary's Office of Department of Human Services – Client Specific Emergency Services Revolving Fund Paying Account.

(a) The ~~Director's office~~ Secretary's Office the Department of Human Services shall establish and maintain as a cash fund account the Client Specific Emergency Services Revolving Fund Paying Account consisting of federal grants, aids, cash donations, reimbursements, and state general revenue, not to exceed a daily balance of ten thousand dollars (\$10,000), for delivery of immediate care, short-term, or emergency services to eligible clients.

(b) The account shall be established and maintained in accordance with

procedures established by the Chief Fiscal Officer of the State for cash funds and shall be administered under the direction of the ~~Director~~ Secretary of the Department of Human Services.

SECTION 103. Arkansas Code § 20-76-422 is repealed

~~20-76-422. Aged, blind, and disabled — Conversion from state to federal program.~~

~~(a) The Director of the Department of Human Services is authorized to enter into agreements with the United States Secretary of Health and Human Services and other state agencies to effectuate an orderly and timely conversion from state to federal programs of cash assistance for the aged, blind, and disabled, as provided in Pub. L. No. 92-603, Title III, in such a manner as would be expedient to both the United States Government and the State of Arkansas.~~

~~(b) The agreements may include the transfer of state funds to, and the receipt of federal funds from, the secretary for the purposes of supplementing the federal benefits to be paid to eligible persons, to facilitate disability, blindness, and Medicaid eligibility determinations on behalf of the state by the secretary, and to enable the state to perform required administrative or program functions on behalf of the secretary under which the secretary will advance federal funds for the payment of full-time and part-time employees and their related supportive expenses as deemed necessary by both the director and the secretary to carry out the conversion plan.~~

SECTION 104. Arkansas Code § 20-77-102(d), concerning the program for long-term care facility care, is amended to read as follows:

(d) The ~~Director~~ Secretary of the Department of Human Services, with the approval of the Governor and after obtaining the advice of the Legislative Council, may provide for an expanded comprehensive program of long-term care facility care for residents of this state if he or she deems the program advisable or appropriate in order to take advantage of expanded federal programs or participation therein, within the limitation of funds that may be available to the department therefor.

SECTION 105. Arkansas Code § 20-77-107(b)-(d), concerning the rules

and regulations for the program for indigent medical care, are amended to read as follows:

(b) The ~~Director~~ Secretary of the Department of Human Services is further authorized to enter into separate agreements with the University of Arkansas for Medical Sciences and private institutions in order to provide maximum medical care for the indigent persons of this state.

(c) The ~~director~~ secretary may enter into agreements with private or public entities to assist in the enforcement of rules and regulations of an indigent medical program, including:

- (1) Utilization review; and
- (2) Professional review of providers participating in the

program.

(d)(1) The ~~director~~ secretary shall ensure that any entity with whom the department contracts to assist in the enforcement of rules and regulations of an indigent medical program will fulfill its duties in accordance with state and federal law and regulations.

(2) The ~~director~~ secretary may terminate any contractor who excessively burdens the State of Arkansas with the defense of appeals of sanctions or citations of deficiencies that are resolved in favor of the program provider.

SECTION 106. Arkansas Code § 20-77-107(f), concerning the rules and regulations for the program for indigent medical care, is amended to read as follows:

(f) The ~~director~~ secretary shall ensure that the professional review of providers, except long-term care facilities and their reviewers, participating in the program comply with the following:

(1) The party conducting any professional reviews of providers participating in the program shall be knowledgeable in the specific areas of law and regulations being enforced;

(2)(A) Every citation or deficiency cited to a provider shall refer by source and number to the authority upon which the citation or deficiency is based.

(B) However, the requirement of subdivision (f)(2)(A) of this section does not limit the department and any entity with whom it contracts in the exercise and application of professional medical judgment in

determining when and under what circumstances care is medically necessary;

(3) The professional review process shall include an informal dispute resolution process to allow the provider to challenge the citation or deficiency cited or sanction to a person other than the person making the citation as defined by the ~~director~~ secretary;

(4) The ~~director~~ secretary shall establish a system to ensure standard and consistent application of sanctions and citation or deficiencies among surveyors in different areas of the state; and

(5) The ~~director~~ secretary shall establish a process for program providers to appeal a decision of a reviewer pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 107. Arkansas Code § 20-77-111(a), concerning data reports on the Arkansas Medicaid Program, is amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Human Services shall cause to be prepared a compilation of data on the Arkansas Medicaid Program.

SECTION 108. Arkansas Code § 20-77-304(b)(1), concerning the notice of an action or claim, is amended to read as follows:

(b)(1) If the recipient, his or her guardian, personal representative, estate, or survivors bring an action against the third party who may be liable for injury, disease, or disability, then notice of institution of the legal proceedings and notice of settlement shall be given the ~~Director~~ Secretary of the Department of Human Services.

SECTION 109. Arkansas Code § 20-77-402 is amended to read as follows:  
20-77-402. Continuation of program.

(a) The ~~Director~~ Secretary of the Department of Human Services and the deputy director of the appropriate division of the Department of Human Services are authorized to provide for continued coverage of prescription drugs under the Title XIX Medicaid Program for the State of Arkansas.

(b) The ~~director~~ secretary and deputy director are authorized to establish necessary program guidelines to control the provision of this service, provided that the guidelines are not in conflict with any federal or state law or regulation.

SECTION 110. Arkansas Code § 20-77-403(a) and (b), concerning fees paid to participating pharmacists, are amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Human Services and the deputy director shall pay each participating pharmacist for each prescription filled under this program the pharmacist's usual and customary charge to the general public for the drug.

(b) However, until existing federal regulations limiting reimbursement for a drug to the lower of the pharmacist's usual and customary charge, or cost of the drug plus a reasonable dispensing fee, are modified or declared invalid by a court, the ~~director~~ secretary and the deputy director shall pay for each prescription, the lower of:

(1) The pharmacist's usual and customary charge to the general public for the drug; or

(2) The pharmacist's cost of the drug plus a dispensing fee. The fee will be adjusted annually on July 1 of each year by the percentage change in the Consumer Price Index, except that on any July 1 immediately following a subsequent cost of dispensing survey conducted by the appropriate division of the Department of Human Services, the fee will be adjusted using the formula used by the ~~director~~ secretary and the deputy director to determine the July 1, 1980, fee or other such formula as may be developed subsequently by the ~~director~~ secretary and the deputy director with the approval of the Legislative Council.

SECTION 111. Arkansas Code § 20-77-404 is amended to read as follows:

20-77-404. Approval from United States Department of Health and Human Services.

(a) The ~~Director~~ Secretary of the Department of Human Services and the deputy director are directed to seek approval by the United States Department of Health and Human Services of the provisions of this subchapter so as to qualify this program for maximum contributions from the United States Department of Health and Human Services under its regulations until those regulations are declared invalid or modified.

(b) If, and to the extent that, the United States Department of Health and Human Services hereafter makes any valid rule that any provision of this subchapter disqualifies this program for the maximum contribution, the ~~director~~ secretary and the deputy director are directed to comply with any

ruling to the extent necessary to qualify for the maximum contribution.

SECTION 112. Arkansas Code § 20-77-710 is amended to read as follows:

20-77-710. Annual report of cotrustees of Special Needs Trust Revolving Fund.

The cotrustees of the Special Needs Trust Revolving Fund shall prepare and transmit annually a report of their activities to the ~~Director~~ Secretary of the Department of Human Services. This report shall include the amount of benefits paid and a statistical summary of claims and benefits made and denied.

SECTION 113. Arkansas Code § 20-77-902(7)(B)(iii)(b), concerning liability for certain acts within the State of Arkansas, is amended to read as follows:

(b) In the case of an entity that is a Medicaid provider as defined in § 20-77-901, the person discloses, in the form and manner as the ~~Director~~ Secretary of the Department of Human Services requires, to the entity and upon request to the ~~director~~ secretary the amount received from each vendor with respect to purchases made by or on behalf of the entity; or

SECTION 114. Arkansas Code § 20-77-902(7)(B)(iv), concerning liability for certain acts within the State of Arkansas, is amended to read as follows:

(iv) Any payment practice specified by the ~~director~~ secretary promulgated pursuant to applicable federal or state law;

SECTION 115. Arkansas Code § 20-77-910 is amended to read as follows:

20-77-910. Suspension of violators.

The ~~Director~~ Secretary of the Department of Human Services may suspend or revoke the provider agreement between the Department of Human Services and the person in the event that the person is found guilty of violating the terms of this subchapter.

SECTION 116. Arkansas Code § 20-77-1302(b), concerning the legislative intent and purpose to combat and prevent healthcare provider fraud and abuse, is amended to read as follows:

(b) The General Assembly intends to provide the ~~Director~~ Secretary of the Department of Human Services with the ability, authority, and resources to pursue administrative sanctions and liquidated damages to protect the fiscal and programmatic integrity of the medical assistance programs from healthcare providers and other persons who engage in fraud, misrepresentation, abuse, or other ill practices, as set forth in this subchapter in order to obtain payments to which these healthcare providers or persons are not entitled.

SECTION 117. Arkansas Code § 20-77-1303(3), concerning the definition of "Department Director" under Medical Assistance Programs Integrity Law, is repealed.

~~(3) "Department director" or "director" means the Director of the Department of Human Services;~~

SECTION 118. Arkansas Code § 20-77-1304(a)(1), concerning claims reviews and administrative sanctions, is amended to read as follows:

(a)(1) Pursuant to rules and regulations promulgated in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the ~~Director~~ Secretary of the Department of Human Services shall establish a process to review a claim made by a healthcare provider to determine whether the claim should be or should have been paid as required by federal or state law or rule.

SECTION 119. Arkansas Code § 20-77-1304(a)(3), concerning claims reviews and administrative sanctions, is amended to read as follows:

(3) The ~~director~~ secretary may withhold payment to a healthcare provider during claims review if necessary to protect the fiscal integrity of the medical assistance programs, provided that the healthcare provider has an opportunity for a hearing within sixty (60) days of the date payment is withheld.

SECTION 120. Arkansas Code § 20-77-1304(b)(1), concerning claims reviews and administrative sanctions, is amended to read as follows:

(b)(1) The ~~director~~ secretary may establish various types of administrative sanctions pursuant to rules and regulations promulgated in

accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., which may be imposed on a healthcare provider or other person who violates any provision of this subchapter or any other applicable federal or state law or rule related to the medical assistance programs.

SECTION 121. Arkansas Code § 20-77-1304(c)(1), concerning claims reviews and administrative sanctions, is amended to read as follows:

(c)(1) The Department of Human Services shall conduct a hearing in compliance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., at the request of a person who wishes to contest an administrative sanction imposed on him or her by the ~~director~~ secretary.

SECTION 122. Arkansas Code § 20-77-1305 is amended to read as follows:  
20-77-1305. Settlement.

The ~~Director~~ Secretary of the Department of Human Services may agree to settle an administrative sanction. The terms of the settlement shall be reduced to writing and signed by the parties to the agreement. The terms of the settlement shall be a public record. The settlement shall include the method and means of payment for recovery, including, but not limited to, adequate security for the full amount of the settlement.

SECTION 123. Arkansas Code § 20-77-2510(d)(1), concerning the Department of Human Services' consultation with the Office of Medicaid Inspector General, is amended to read as follows:

(d)(1) ~~No later than December 1, 2013, the~~ The ~~Director~~ Secretary of the Department of Human Services in conjunction with the office shall prepare and submit an interim report to the Governor and the cochairs of the Legislative Council on the implementation of the initiatives under this section annually.

SECTION 124. Arkansas Code § 20-78-215(a)(2), concerning federal funding for background checks for employees of child care facilities, is amended to read as follows:

(2) Specifically, regulations promulgated by the ~~Director~~ Secretary of the Department of Human Services pursuant to this section may address federally mandated requirements for employment history and background

checks and nationwide criminal record checks, as may be necessary in accordance with the provisions of Pub. L. No. 92-544, for all operators, staff, or employees, or prospective operators, staff, or employees of the child care facilities or programs as defined in this section.

SECTION 125. Arkansas Code § 20-78-215(b), concerning federal funding for background checks for employees of child care facilities, is amended to read as follows:

(b) In order to enable the State of Arkansas to fully participate and share in federal funds made available to the states through the Social Services Block Grant Act, or otherwise for the purposes of reducing and eliminating the incidence of child sexual abuse in child care facilities, as defined in § 20-78-202(2), the ~~director~~ secretary is authorized at his or her discretion to promulgate, pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., rules and regulations implementing such federal requirements as may be placed upon the states to qualify for the funds.

SECTION 126. Arkansas Code § 20-79-204(b), concerning the Deputy Director of the Arkansas Rehabilitation Services, is amended to read as follows:

(b) In carrying out his or her duties under this subchapter, the deputy director:

(1) Shall, with the approval of the ~~Director~~ Secretary of the Department of Human Services, prepare regulations for promulgation by the appropriate division of the department governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, and investigation and determination thereof, for rehabilitation services, procedures for fair hearings, and such other regulations as he or she finds necessary to carry out the purposes of this subchapter, including the order to be followed in selecting those to whom rehabilitation services are to be provided in situations where service cannot be provided to all who are eligible for service;

(2) Shall, with the approval of the ~~director~~ secretary, establish appropriate subordinate administrative units within the Arkansas Rehabilitation Services;

(3) Shall recommend to the ~~director~~ secretary for appointment

such personnel as he or she deems necessary for the efficient performance of the functions of the Arkansas Rehabilitation Services;

(4) Shall prepare and submit to the ~~director~~ secretary and the Governor annual reports of activities and expenditures and, prior to each regular session of the General Assembly, estimates of sums required to carry out this subchapter, as well as estimates of the amounts to be made available for this purpose from all sources;

(5) Shall make certification for disbursement, in accordance with regulations, of funds available for carrying out the purposes of this subchapter; and

(6) May, with the approval of the ~~director~~ secretary, delegate to any officer or employee of the Arkansas Rehabilitation Services such of his or her powers and duties, except the making of regulations and the making of recommendations for appointment of personnel, as he or she finds necessary to carry out the purposes of this subchapter.

SECTION 127. Arkansas Code § 23-61-803(c)(5), concerning the creation of the Arkansas Health Insurance Marketplace, is amended to read as follows:

(5) The ~~Director~~ Secretary of the Department of Human Services or his or her designee as an ex officio nonvoting member.

SECTION 128. Arkansas Code § 25-10-101 is repealed.

~~25-10-101. Creation Appointment of director.~~

~~(a) There is created a Department of Human Services.~~

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

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

SECTION 129. Arkansas Code § 25-10-102 is amended to read as follows:

25-10-102. Organization generally.

(a) The Department of Human Services is a cabinet-level department and shall consist of and be operated under an integrated service system consisting of the following programmatic divisions with responsibilities and programs assigned to them as determined by the ~~Director~~ Secretary of the Department of Human Services and those state entities transferred to the

Department of Human Services pursuant to a cabinet-level transfer under § 25-43-902:

(1) The Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services;

(2) The Division of Medical Services;

(3) The Division of Developmental Disabilities Services;

(4) The Division of County Operations;

(5) The Division of Youth Services;

~~(6) The Division of State Services for the Blind;~~

~~(7) The Division of Children and Family Services;~~

~~(8)(7) The Division of Child Care and Early Childhood Education;~~

and

~~(9)(8) The Division of Provider Services and Quality Assurance.~~

(b) The ~~Director's~~ Secretary's Office of the Department of Human Services shall consist of:

(1) The ~~Director~~ Secretary of the Department of Human Services and his or her personal staff; and

(2) Shared business services operating across the divisions, offices, sections, and units of the department, including without limitation business operations and administrative functions determined necessary by the ~~director~~ secretary.

(c)(1)(A) Each division of the department shall be under the direction, control, and supervision of the ~~director~~ secretary.

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

(C) Before implementation of any reorganization, the ~~director~~ secretary shall obtain the advice of the House Committee on State Agencies and Governmental Affairs and the Senate Committee on State Agencies and Governmental Affairs.

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

(B) The ~~boards~~ Board of Developmental Disabilities Services and the Department of Human Services State Institutional System Board shall perform their respective functions and duties under the general guidelines and standards promulgated by the ~~director~~ secretary.

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

SECTION 130. Arkansas Code § 25-10-104(b), concerning the Board of Developmental Disabilities Services, is amended to read as follows:

25-10-104. Developmental disabilities services – Board of Developmental Disabilities Services.

(b) The Board of Developmental Disabilities Services shall name the administrative head or director of each of the respective institutions under the board's jurisdiction with the concurrence of the ~~Director~~ Secretary of the Department of Human Services.

(c) Under a type 1 transfer of the Board of Developmental Disabilities Services, and the institutions under its management and control, to the Department of Human Services, the board shall have control of all budgeting, purchasing, and related management functions in accordance with the limitations and restrictions thereon provided in this act and by other laws applicable thereto.

(d)(1) It is the intent of this section that the administration of the human development centers located at ~~Alexander~~, Arkadelphia, Booneville, Conway, Jonesboro, and the Southeast Human Development Center at Warren, and the various facilities and services thereof, shall be under the control of the Board of Developmental Disabilities Services, as provided and intended by ~~the~~ Arkansas Constitution, Amendment 33, but the board shall exercise its control in accordance with the general guidelines, policies, and regulations of the Department of Human Services governing divisions, offices, sections, or units within the department with respect to budgets, personnel and personnel policies, records, purchasing, bookkeeping, and other administrative procedures prescribed by the ~~director~~ secretary.

(2) It is the intent of this act that the Board of Developmental Disabilities Services shall devote its time and resources to the operation and management of the state-owned and controlled institutional programs of

the various state human development centers and that the establishment and operation of community programs, workshops, and other services for individuals with developmental disabilities or individuals with intellectual disabilities in this state and other regional and community services benefiting individuals with developmental disabilities or individuals with intellectual disabilities shall be administered by the Department of Human Services through the divisions, offices, sections, or units of the department as determined by the ~~director of the department~~ secretary.

(e)(1) Nothing in this act shall be construed to prevent community providers from making determinations consistent with guidelines and criteria established by the state with respect to the appropriate placement of eligible individuals with developmental disabilities or individuals with intellectual disabilities in the least restrictive setting and the development of individual program plans for instructional and case management functions for individuals with developmental disabilities or individuals with intellectual disabilities, in keeping with the requirements of regulations promulgated pursuant to the Education for All Handicapped Children Act of 1975, Pub. L. No. 94-142, and § 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112.

(2) The state reserves the authority to make final determination of eligibility for services funded, in whole or in part, by state and federal funds.

SECTION 131. Arkansas Code § 25-10-106 is amended to read as follows:  
25-10-106. Division heads and other personnel.

(a)(1) The ~~Director~~ Secretary of the Department of Human Services, with the advice and consent of the Governor, shall ~~appoint~~ employ the heads of the various divisions of the Department of Human Services.

(2) The heads of the respective offices, sections, or units of the department and all other personnel of the department shall be employed by and serve at the pleasure of the ~~Director~~ Secretary of the Department of Human Services.

(b)(1) However, the directors of the various institutions and programs under the jurisdiction and control of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services shall be named by the

~~respective boards~~ Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services, with the concurrence of the ~~Director~~ Secretary of the Department of Human Services.

(2) All personnel employed in the institutions under the management and control of ~~those boards~~ Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services shall be named by the directors thereof, under the departmental rules and regulations related to personnel, and all personnel records of the ~~boards of those~~ institutions of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services shall be in conformance with the general personnel policies promulgated by the ~~Director~~ Secretary of the Department of Human Services for other employees of the department.

(c) Nothing in this act shall be construed to reduce any rights which an employee of the department or the various divisions, offices, sections, or units thereof shall have under any civil service or merit system.

SECTION 132. Arkansas Code § 25-10-107(a), concerning reports of divisions of the Department of Human Services, is amended to read as follows:

(a) All other divisions within the Department of Human Services shall provide the ~~Director's~~ Secretary's Office of the Department of Human Services with all policies regarding personnel administration, procurement of commodities and services, accounting and budget control, licensure of facilities, program planning and evaluation, contractual agreements with consultants and providers of services, data processing systems management, federal grant management, and any other information which may be requested by the office.

SECTION 133. Arkansas Code § 25-10-108 is amended to read as follows:

25-10-108. Coordination of programs, procedures, etc., of department and institutional boards.

In addition to the functions and duties provided by law to be performed by the ~~Director~~ Secretary of the Department of Human Services, the ~~director~~ secretary shall direct those divisions, offices, sections, or units of the Department of Human Services which he or she may designate to:

(1) Serve in a liaison capacity for the Department of Human

Services and the ~~director~~ secretary thereof with the boards and the directors of the various institutional facilities of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services in efforts to coordinate services provided citizens of this state through those institutions with programs of the department for the benefit of neglected, dependent, and delinquent juveniles, individuals with mental illness, and individuals with intellectual disabilities or individuals with developmental disabilities of this state;

(2) Cooperate with the administrators of the various institutions under the direction and control of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services in the administration of fiscal and budgetary policies applicable to all divisions and programs of the department as promulgated by the ~~director~~ secretary thereof and as directed by the Chief Fiscal Officer of the State;

(3) Offer assistance to the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services in developing biennial budgets and annual, quarterly, and monthly fiscal plans for the operation of those institutions and assist ~~those boards~~ the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services in complying with the budget and fiscal policies promulgated by the ~~Director~~ Secretary of the Department of Human Services for the control and management of the funds made available to the department and its various offices, divisions, programs, and institutions. In connection therewith, the ~~boards~~ Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services shall be furnished records of all accounts, expenditures, funds, and fund balances available to each institution for its operation and support;

(4)(A) Coordinate, with each institution and its administrator under the control and direction of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services, the purchasing policies and procedures of the department as promulgated by the ~~director~~ secretary thereof to assure that all those institutions comply with the uniform purchasing

practices and policies of the department and with the Arkansas Procurement Law, § 19-11-201 et seq., and the rules and regulations promulgated thereunder by the State Procurement Director.

(B) However, each of the various institutions under the control of the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services within the Department of Human Services is authorized to have institutional purchasing officials who shall be authorized to make purchases in behalf of those institutions which are not within the exclusive jurisdiction of the State Procurement Director, but all such purchases shall be made in compliance with the uniform purchasing practices and policies promulgated by the ~~Director~~ Secretary of the Department of Human Services to be applicable to all divisions, offices, sections, or units of the department and shall be in conformance with the Arkansas Procurement Law, § 19-11-201 et seq., and regulations promulgated by the State Procurement Director; and

(5)(A) Coordinate the policies promulgated by the ~~Director~~ Secretary of the Department of Human Services for the administration of personnel and personnel records within the various divisions, offices, sections, or units of the department with the Department of Human Services State Institutional System Board, the Board of Developmental Disabilities Services within the Department of Human Services, and the administrators of each of those institutions to assure that all employee records and personnel records conform to the personnel policies and records promulgated by the ~~Director~~ Secretary of the Department of Human Services and to the personnel policies and practices laws of the State of Arkansas.

(B) Nothing in this act shall prohibit or restrict the right of each of the institutional boards to employ, promote, discipline, or discharge any employee of any of those institutions so long as those actions are within the overall policies and procedures promulgated by the ~~Director~~ Secretary of the Department of Human Services governing employee practices or actions.

SECTION 134. Arkansas Code § 25-10-109 is amended to read as follows:

25-10-109. Institutional services generally – Development of admission policies, etc.

In addition to the functions and duties provided by law and this act to

be performed by the Board of Developmental Disabilities Services within the Department of Human Services and the Department of Human Services State Institutional System Board, it is the intent of this act that ~~those boards~~ the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services shall cooperate with the ~~Director~~ Secretary of the Department of Human Services, the divisions, offices, sections, or units of the Department of Human Services created by this act, and the programs funded by and operated by the department by developing admission policies, criteria, and services which will assure appropriate access to institutional services to meet the residential service needs of the citizens of this state.

SECTION 135. Arkansas Code § 25-10-111 is amended to read as follows:  
25-10-111. Budgeting generally.

(a)(1) The ~~Director~~ Secretary of the Department of Human Services shall obtain from each division, office, section, or unit of the Department of Human Services, including the institutions and institutional boards thereunder, all requests for biennial appropriations and all requests for special supplemental or construction appropriations.

(2) The ~~director~~ secretary shall review the requests and submit to the Chief Fiscal Officer of the State, the Governor, and the Legislative Council a coordinated budget for all divisions, offices, programs, institutions, and services of the department in whatever detail may be required by the state budgetary laws and by the budget forms and procedures promulgated by the Chief Fiscal Officer of the State and by the Legislative Council.

(b) It shall be the responsibility of the ~~director~~ secretary to operate all of its divisions, offices, and programs and to require that each of the institutional boards under the department administer their programs within those fiscal limitations and restraints which the ~~director~~ secretary deems necessary to assure that each program, service, and institution within the department receives an allocation of funds in accordance with the needs of the respective programs, services, and institutions and within the limitation of the moneys allocated and appropriated to the department for the operation of those programs, services, and institutions.

(c)(1) Although it is the intent of this act that the Department of

Human Services State Institutional System Board and the Board of Developmental Disabilities Services shall each operate their institutional programs and services within the Department of Human Services with autonomy and independence as intended by the Arkansas Constitution, Amendment 33, the General Assembly recognizes that reasonable fiscal policies are necessary to assure that the various services of government are operated on a sound financial basis and that deficit spending is not implemented.

(2) In furtherance of that policy, the General Assembly determines that:

(A) The ~~director~~ secretary, with respect to the allocation of funds and the exercise of fiscal restraint over all divisions, offices, sections, units, programs, services, and institutions within the department, shall have the ultimate authority to allocate and limit the amount of funds to be expended in the operation of each division, office, program, service, and institution within the department as he or she deems necessary to comply with the fiscal laws of this state; and

(B) Nothing herein shall be construed to limit the ultimate authority of the ~~director~~ secretary to develop and operate the various programs in the state institutional system.

(3) However, all real property, including capital improvements thereon, constituting the Department of Human Services State Institutional System shall be under the control of the Department of Human Services State Institutional System Board, and ~~that board~~ the Department of Human Services State Institutional System Board and the Board of Developmental Disabilities Services may convey by sale or lease any real property within the state institutional system.

SECTION 136. Arkansas Code § 25-10-115(a), concerning county offices of human services, is amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Human Services shall establish a county office of human services in each county of this state. The county offices shall provide the citizens of each county access to the various services and programs provided by the Department of Human Services as well as follow-up contact and services.

SECTION 137. Arkansas Code § 25-10-116(a) and (b), concerning the

advisory committees of the Department of Human Services, are amended to read as follows:

(a) From time to time, the ~~Director~~ Secretary of the Department of Human Services or the Governor may establish various advisory committees to assist the ~~director~~ secretary and the various divisions, offices, sections, or units within Department of Human Services in reviewing and offering advice on any of the programs, services, and duties of the department which the ~~director~~ secretary or the Governor may deem appropriate for the proper and efficient operation of the department and its respective programs, services, and duties.

(b) The advisory committees shall exist for the duration determined by the ~~director~~ secretary or the Governor.

SECTION 138. Arkansas Code § 25-10-122(b), concerning the creation of the Office of Minority Mental Health, is amended to read as follows:

(b) The head of the Office of Minority Mental Health shall be ~~appointed~~ employed by the ~~Director~~ Secretary of the Department of Human Services.

SECTION 139. Arkansas Code § 25-10-131 is amended to read as follows:  
25-10-131. Match transfer.

The ~~Director~~ Secretary of the Department of Human Services, with the approval of the Chief Fiscal Officer of the State, is authorized to effect interagency fund transfers for the purpose of providing the state's matching share for payments made to that division or office, or its service providers, for services eligible for federal reimbursement under programs administered by other divisions or offices of the Department of Human Services.

SECTION 140. Arkansas Code § 25-10-133(a)(2), concerning transfer provisions, is amended to read as follows:

(2) Such reallocations or transfers shall be requested by the ~~Director~~ Secretary of the Department of Human Services.

SECTION 141. Arkansas Code § 25-10-136(c), concerning notice of private service contract by the Division of Youth Services, is amended to read as follows:

(c) In the event the General Assembly is in session, the ~~Director~~ Secretary of the Department of Human Services shall provide the report to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the ~~chair~~ Chair of the Senate Interim Committee on Children and Youth.

SECTION 142. Arkansas Code § 25-10-143(a)-(h), concerning advisory opinions by the Director of the Department of Human Services, is amended to read as follows:

(a) As used in this section, “advisory opinion” means a written statement by the ~~Director~~ Secretary of the Department of Human Services or his or her designee that explains the applicability to a specified set of facts of a pertinent statutory or regulatory provision relating to the provision of medical items or services under the medical assistance program administered by the Department of Human Services.

(b)(1) The ~~director~~ secretary may issue an advisory opinion at the request of a provider enrolled in the medical assistance program.

(2) Except as under subsection (h) of this section, the opinion is binding upon the ~~director~~ secretary with respect to that provider only.

(3) If the ~~director~~ secretary cannot respond to the request for an advisory opinion, the ~~director~~ secretary shall within thirty (30) days notify the provider that he or she will not be responding to the request for an opinion.

(c) A provider may request an advisory opinion concerning:

- (1) A substantive question or a procedural matter;
- (2) Questions arising before an audit or investigation concerning a provider’s claim for payment or reimbursement; and
- (3) A hypothetical or projected service plan.

(d) The ~~director~~ secretary shall not issue an advisory opinion if the request for an advisory opinion relates to a pending question raised by the provider in an ongoing or initiated investigation conducted by the Medicaid Inspector General, the Attorney General, a criminal investigation, or a civil or criminal proceeding, or if the provider has received a written notice from the ~~director~~ secretary or the Medicaid Inspector General that advises the provider of an imminent investigation, audit, suspended claim, or withholding of payment or reimbursement.

(e) This section does not supersede a federal regulation, law, requirement, or guidance.

(f) The ~~director~~ secretary shall adopt a rule establishing the time within which an advisory opinion shall be issued and the criteria for determining the eligibility of a request for departmental response.

(g) An advisory opinion represents an expression of the views of the ~~director~~ secretary as to the application of laws, rules, and other precedential material to the set of facts specified in the request for an advisory opinion.

(h)(1) A previously issued advisory opinion found by the ~~director~~ secretary to be in error may be modified or revoked.

(2) If the ~~director~~ secretary modifies or revokes an advisory opinion, the modification or revocation operates prospectively.

(3) A recovery of medical assistance overpayments caused by a provider's reliance on an advisory opinion that is later modified or revoked is prohibited for the period up until the modification or revocation unless the provider is involved in fraud.

(4) The department promptly shall notify the provider of a modification or revocation of an advisory opinion.

SECTION 143. Arkansas Code § 25-10-144(a)(1), concerning the creation of the Governor's Advisory Commission on National Service and Volunteerism, is amended to read as follows:

(1) Assist the community engagement program and staff of the ~~Director's~~ Secretary's Office of the Department of Human Services in setting goals, establishing priority activities, performing an advocacy role, and assisting in funding and resource development and publicity and recognition and awards programs; and

SECTION 144. Arkansas Code § 25-10-402 is amended to read as follows:  
25-10-402. Purpose – Guidelines.

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

(b) The board shall perform its functions and duties in accordance with the general guidelines, policies, and regulations of the ~~department~~

Department of Human Services governing divisions, offices, sections, or units within the department with respect to budgets, personnel and personnel policies, records, purchasing, bookkeeping, and other administrative procedures prescribed by the ~~Director~~ Secretary of the Department of Human Services.

SECTION 145. Arkansas Code § 27-3-103(b)(3), concerning the membership of the Arkansas Public Transportation Coordination Council, is amended to read as follows:

(3) The remaining seven (7) members of the Arkansas Public Transportation Coordination Council shall be:

(A) The ~~Director~~ Secretary of the Department of Human Services or his or her designee;

(B) The Director of State Highways and Transportation or his or her designee;

(C) The ~~Director~~ Secretary of the Department of Health or his or her designee;

(D) The Chair of the Arkansas Economic Development Council or his or her designee;

(E) The ~~Executive~~ Director of the Arkansas Economic Development Commission or his or her designee;

(F) The Director of the University of Arkansas Cooperative Extension Service or his or her designee; and

(G) The Chair of the Arkansas Workforce Development Board or his or her successor or designee.

SECTION 146. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the provisions of this act should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.