

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

SENATE BILL 221

By: Senator K. Hammer

For An Act To Be Entitled

AN ACT TO CREATE THE AL HUNT ACT; TO MODERNIZE THE PROVISIONS WITHIN THE ARKANSAS CODE TO REMOVE REFERENCES TO THE TERMS "MENTAL RETARDATION" AND "MENTALLY RETARDED"; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE AL HUNT ACT; AND TO MODERNIZE THE PROVISIONS WITHIN THE ARKANSAS CODE TO REMOVE REFERENCES TO THE TERMS "MENTAL RETARDATION" AND "MENTALLY RETARDED".

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

SECTION 1. DO NOT CODIFY. Title.

This act shall be known and may be cited as the "Al Hunt Act".

SECTION 2. DO NOT CODIFY. Legislative intent.

It is the intent of the General Assembly to:

(1) Make a nonsubstantive change in provisions of the Arkansas Code to remove the outdated use of the terms "mental retardation" and "mentally retarded" where appropriate;

(2) Not alter the scope or applicability of any existing statute in which the terms "mental retardation" and "mentally retarded" appear;

(3) Honor Al Hunt of Little Rock who was born in 2003 and diagnosed with Down syndrome and who advocates on behalf of himself and his peers for removal of outdated and deprecating language in the Arkansas Code;



and

(4) To treat individuals with intellectual and other developmental disabilities with respect and dignity in the Arkansas Code.

SECTION 3. Arkansas Code § 4-88-201(b), concerning the definition of "disabled person" under deceptive trade practices, is amended to read as follows:

(b) "Disabled person" means a person who has a physical or mental impairment which substantially limits one (1) or more of such person's major life activities.

(1) As used in this subsection, "physical or mental impairment" means any of the following:

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one (1) or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

(B) Any mental or psychological disorder, ~~such as mental retardation~~ including intellectual and developmental disabilities, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(2) The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairment, cerebral palsy, spina bifida, Down syndrome, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, ~~mental retardation~~ intellectual and developmental disabilities, and emotional illness.

SECTION 4. Arkansas Code § 5-4-618 is amended to read as follows:

5-4-618. ~~Mental retardation~~ Defendants with intellectual disabilities.

(a)(1) As used in this section, "~~mental retardation~~" "intellectual disabilities" means:

(A) Significantly ~~subaverage~~ below average general intellectual functioning accompanied by a significant deficit or impairment in adaptive functioning manifest in the developmental period, but no later than age eighteen (18) years of age; and

(B) A deficit in adaptive behavior.

(2) There is a rebuttable presumption of ~~mental retardation~~ intellectual disabilities when a defendant has an intelligence quotient of sixty-five (65) or below.

(b) No defendant with ~~mental retardation~~ intellectual disabilities at the time of committing capital murder shall be sentenced to death.

(c) The defendant has the burden of proving ~~mental retardation~~ intellectual disabilities at the time of committing the offense by a preponderance of the evidence.

(d)(1) A defendant on trial for capital murder shall raise the special sentencing provision of ~~mental retardation~~ intellectual disabilities by motion prior to trial.

(2)(A) Prior to trial, the court shall determine if the defendant has ~~mental retardation~~ intellectual disabilities.

(B)(i) If the court determines that the defendant does not have ~~mental retardation~~ intellectual disabilities, the defendant may raise the question of ~~mental retardation~~ intellectual disabilities to the jury for determination de novo during the sentencing phase of the trial.

(ii) At the time the jury retires to decide mitigating and aggravating circumstances, the jury shall be given a special verdict form on ~~mental retardation~~ intellectual disabilities.

(iii) If the jury unanimously determines that the defendant had ~~mental retardation~~ intellectual disabilities at the time of the commission of capital murder, then the defendant will automatically be sentenced to life imprisonment without possibility of parole.

(C) If the court determines that the defendant has ~~mental retardation~~ intellectual disabilities, then:

(i) The jury is not "death qualified"; and

(ii) The jury shall sentence the defendant to life imprisonment without possibility of parole upon conviction.

(e) However, this section is not deemed to:

(1) Require unanimity for consideration of any mitigating circumstance; or

(2) Supersede any suggested mitigating circumstance regarding mental defect or disease currently found in § 5-4-605.

SECTION 5. Arkansas Code § 9-28-402(12)(F) and (G), concerning the definition of "exempt child welfare agency" under the Child Welfare Agency Licensing Act, are amended to read as follows:

(F) Human development centers regulated by the Board of Developmental Disabilities Services pursuant to the Location Act for Community Homes for ~~Developmentally Disabled Persons~~ Individuals with Intellectual and Developmental Disabilities, § 20-48-601 et seq.;

(G) Any facility licensed as a family home pursuant to the Location Act for Community Homes for ~~Developmentally Disabled Persons~~ Individuals with Intellectual and Developmental Disabilities, § 20-48-601 et seq.;

SECTION 6. Arkansas Code § 9-28-402(12)(M), concerning the definition of "exempt child welfare agency" under the Child Welfare Agency Licensing Act, is amended to read as follows:

(M) Any intellectual or other developmental disabilities services waiver provider licensed under § 20-48-208 or the Location Act for Community Homes for ~~Developmentally Disabled Persons~~ Individuals with Intellectual and Developmental Disabilities, § 20-48-601 et seq.;

SECTION 7. Arkansas Code § 10-3-203(3)(A)(iii), concerning the subject matter jurisdiction of the House Committee on Public Health, Welfare, and Labor, is amended to read as follows:

(iii) House Committee on Public Health, Welfare, and Labor – matters pertaining to public health, mental health, ~~mental retardation~~ intellectual and other developmental disabilities, public welfare, human relations and resources, environmental affairs, water and air pollution, labor and labor relations, similar legislation, and resolutions germane to the subject matter of the House Committee on Public Health, Welfare, and Labor;

SECTION 8. Arkansas Code § 10-3-203(3)(B)(i), concerning the subject matter jurisdiction of the Senate Committee on Public Health, Welfare, and Labor, is amended to read as follows:

(i) Senate Committee on Public Health, Welfare, and Labor – matters pertaining to public health, mental health, ~~mental~~

~~retardation~~ intellectual and other developmental disabilities, public welfare, human relations and resources, the aged and problems of the aging, environmental affairs, water and air pollution, labor and labor relations, and similar legislation;

SECTION 9. Arkansas Code § 12-12-1513(a)(2), concerning status as a registered sex offender, is amended to read as follows:

(2) Certain agencies are mandated to perform background checks on persons who work with children, elderly persons, and ~~developmentally disabled persons~~ individuals with intellectual or other developmental disabilities;

SECTION 10. Arkansas Code § 12-12-1603(7), concerning the definition of "individuals with disabilities" within the Criminal History for Volunteers Act, is amended to read as follows:

(7) "Individuals with disabilities" means ~~mentally ill or developmentally disabled~~ individuals with mental illness or intellectual or other developmental disabilities or with physical or mental impairments that substantially limit one (1) or more of the major life activities of the individual;

SECTION 11. Arkansas Code § 17-82-701(5), concerning the definition of "public settings" in the dental hygienist collaborative care program, is amended to read as follows:

- (5) "Public settings" means:
- (A) Adult long-term care facilities;
 - (B) Charitable health clinics that provide free or reduced-fee services to low-income patients;
 - (C) County incarceration facilities;
 - (D) Facilities that primarily serve ~~developmentally disabled persons~~ individuals with intellectual or other developmental disabilities;
 - (E) Head Start programs;
 - (F) Homes of homebound patients who qualify for in-home medical assistance;
 - (G) Hospital long-term care units;

- (H) Local health units;
- (I) Schools;
- (J) Community health centers; and
- (K) State correctional institutions; and

SECTION 12. Arkansas Code § 20-8-109(d), concerning the approval of certain new projects by the Health Services Permit Agency, is amended to read as follows:

(d)(1) The Health Services Permit Agency shall process all applications or certificates of need for intermediate care facilities for ~~the~~ individuals with intellectual or other developmental disabilities with fifteen (15) or fewer beds ~~which that~~ were pending on April 4, 1987, and shall for a period of thirty (30) days after April 4, 1987, accept additional applications for such facilities.

(2) The applications shall be processed utilizing the criteria and procedures in existence before April 4, 1987, and in addition the Health Services Permit Agency shall consider as a primary factor the experience of each applicant in serving ~~the developmentally disabled population~~ individuals with intellectual or other developmental disabilities.

SECTION 13. Arkansas Code § 20-10-802(12), concerning the exceptions from licensing requirements for home healthcare services, is amended to read as follows:

(12) Persons providing services to one (1) or more ~~developmentally disabled persons~~ individuals with intellectual or other developmental disabilities, as defined in § 20-48-101, under a license or certificate from the Division of Developmental Disabilities Services of the Department of Human Services.

SECTION 14. Arkansas Code § 20-15-302(c)(1), concerning the testing of newborns relating to phenylketonuria, hypothyroidism, and sickle-cell anemia, is amended to read as follows:

(c)(1) The department shall establish and maintain a program of reviewing and following up on positive cases so that measures may be taken to prevent intellectual and other developmental disability or other permanent disabilities.

SECTION 15. Arkansas Code § 20-46-502(1), concerning the definition of "adults with long-term severe mental illness" as to intensive residential treatment, is amended to read as follows:

(1)(A) "Adults with long-term severe mental illness" means a person, eighteen (18) years of age or over, who meets criteria for service eligibility as defined by the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services.

(B) Individuals whose sole disability results from alcoholism, drug abuse, or intellectual or other developmental disability are excluded from this definition; and

SECTION 16. Arkansas Code § 20-47-202(12), concerning the definition of "mental illness" related to commitment and treatment of persons with mental illness, is amended to read as follows:

(12)(A) "Mental illness" means a substantial impairment of emotional processes, the ability to exercise conscious control of one's actions, or the ability to perceive reality or to reason, when the impairment is manifested by instances of extremely abnormal behavior or extremely faulty perceptions.

(B) Mental illness does not include impairment solely caused by:

- (i) Epilepsy;
- (ii) ~~Developmental~~ Intellectual or other developmental disability;
- (iii) Continuous or noncontinuous periods of intoxication caused by substances such as alcohol or drugs; or
- (iv) Dependence upon or addiction to any substance such as alcohol or drugs;

SECTION 17. Arkansas Code § 20-47-406(a) and (b), concerning Department of Human Services agreements for medical care of indigent mentally ill or tubercular, are amended to read as follows:

(a) The Arkansas State Hospital and other state institutions are authorized to enter into agreements with the Department of Human Services to establish and maintain a medical care program for the indigent mentally ill,

~~mentally retarded~~ individuals with intellectual and developmental disabilities, and tubercular at the Arkansas State Hospital and any other state institution and to transfer funds to the Department of Human Services Fund pursuant to the agreement.

(b) The agreement made between the Arkansas State Hospital or other institution and the department shall be in compliance with federal law and shall meet qualifications necessary for federal funds to be paid for the care of indigent mentally ill, ~~mentally retarded~~ intellectually and developmentally disabled, and tubercular in the Arkansas State Hospital or other institution.

SECTION 18. Arkansas Code § 20-48-101(2) and (3), concerning the definitions of "developmental disability" and "existing operations" for the treatment of persons with developmental disabilities, are amended to read as follows:

(2) "~~Developmental~~ Intellectual and developmental disability" means a disability of a person that:

(A)(i) Is attributable to ~~intellectual disability~~ impairment of general intellectual functioning or adaptive behavior, including without limitation, cerebral palsy, spina bifida, Down syndrome, epilepsy, or autism;

(ii) Is attributable to any other condition of a person found to be closely related to an intellectual or other developmental disability as described in subdivision (2)(A)(i) of this section because the condition results in an impairment of general intellectual functioning or adaptive behavior similar to that of a person with intellectual or other developmental disability or requires treatment and services similar to that required for a person with intellectual or other developmental disability; or

(iii) Is attributable to dyslexia resulting from a disability described in subdivision (2)(A)(i) of this section or subdivision (2)(A)(ii) of this section;

(B) Originates before the person attains twenty-two (22) years of age;

(C) Has continued or can be expected to continue indefinitely; and

(D) Constitutes a substantial handicap to the person's

ability to function without appropriate support services, including, but not limited to, planned recreational activities, medical services such as physical therapy and speech therapy, and possibilities for sheltered employment or job training;

(3) "Existing operations" means the provision by a qualified nonprofit community provider of one (1) or more of the following services without regard to order:

(A) A developmental day treatment clinic services preschool program or adult development program;

(B) A licensed developmental disability services group home in operation and recognized by the division on or before July 1, 1995;

(C) An intermediate care facility for the program for individuals with intellectual or other developmental disabilities with fifteen (15) beds or less; or

(D) An apartment complex in operation and serving individuals with developmental disabilities on or before January 1, 2008;

SECTION 19. Arkansas Code § 20-48-104 is amended to read as follows:

20-48-104. Intermediate Care Facility for Persons with Intellectual and Developmental Disabilities program – Administration.

(a) The operation of the community-based Intermediate Care Facility for Persons with Intellectual and Developmental Disabilities program will be subject to the oversight of a five-member committee composed of three (3) members of the House of Representatives to be appointed by the Speaker of the House of Representatives and two (2) members of the Senate to be appointed by the President Pro Tempore of the Senate.

(b) The committee shall provide oversight for the operation of the small intermediate care facility for the ~~mentally-retarded~~ persons with intellectual and developmental disabilities program and make recommendations, within the appropriate federal regulations and guidelines, to the Division of Developmental Disabilities Services and the Office of Long-Term Care to establish and clarify the mission, goals, levels of services, and scope of the program and to provide consistency in state regulations, guidelines, standards, and policies.

(c) The committee shall also make recommendations for adequate funding to ensure the fiscal integrity of the program to allow it to be operated

pursuant to the state and federal regulations, guidelines, standards, and policies.

SECTION 20. Arkansas Code §§ 20-48-201 and 20-48-202 are amended to read as follows:

20-48-201. Title.

This subchapter shall be known and may be cited as the “Arkansas Intellectual and Developmental Disabilities Act”.

20-48-202. Definitions.

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

~~(1) “Board” means the Board of Developmental Disabilities Services;~~

~~(2)(1)~~ “Center” means a human development center;

~~(3)(2)~~ “Community” means either region or locality;

~~(4)(3)~~ “Coordinate” means to bring resources to bear in appropriate sequence and relationship to provide the proper services for individuals with intellectual and developmental disabilities. “Coordinate” implies a working relationship with, but not administrative authority over, public agencies providing intellectual and developmental disabilities services ~~to individuals with intellectual disabilities;~~

~~(5) “Director” means the Director of the Department of Human Services;~~

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

~~(7)(4)~~ “Individual” means a person without regard to chronological age;

(5) "Intellectual and developmental disabilities services" means all services pertaining to and incidental to the prevention, detection, diagnosis, evaluation, treatment, care, custody, education, training, rehabilitation, or supervision of individuals with intellectual and developmental disabilities;

~~(8)(6)~~ “Locality” means a geographical area defined by the division usually consisting of a municipality or county but not excluding other areas within easy commuting distance;

~~(9) “Services for individuals with intellectual disabilities” or “services” means all services pertaining to and incidental to the prevention, detection, diagnosis, evaluation, treatment, care, custody, education, training, rehabilitation, or supervision of retarded individuals;~~

~~(10)(7) “Private organizations” means organizations, persons, firms, individuals, corporations, or associations;~~

(8)(A) "Individual with intellectual and developmental disabilities" means a person:

(i) With a mental deficit requiring him or her to have special evaluation, treatment, care, education, training, supervision, or control in his or her home or community, or in a state institution for individuals with intellectual and developmental disabilities; or

(ii) Who has a functional disability who may not exhibit an intellectual deficit on standard psychological tests but who, because of other handicaps, functions as an individual with intellectual and developmental disabilities.

(B) "Individual with intellectual and developmental disabilities" does not include a person whose primary condition is caused by mental illness, emotional disturbance, physical handicap, or sensory defect;

~~(11)(10) “Public agencies” means all agencies, departments, boards, institutions, commissions, officers, officials, political subdivisions and agencies thereof, and school districts of this state;~~

~~(12)(11) “Region” means a geographical area defined by the division, usually consisting of all or parts of two (2) or more counties, which is created to provide services for individuals with intellectual and developmental disabilities when the services cannot be provided feasibly or practically at the local level; and~~

~~(13) “Individual with intellectual disabilities” means:~~

~~(A) A person with a mental deficit requiring him or her to have special evaluation, treatment, care, education, training, supervision, or control in his or her home or community, or in a state institution for the individual with intellectual disabilities; or~~

~~(B) A person who may not exhibit an intellectual deficit on standard psychological tests but who, because of other handicaps, functions as a person with intellectual disabilities. Not included is a person whose primary problem is mental illness, emotional disturbance,~~

~~physical handicap, or sensory defect; and~~

~~(14)~~(13) "Superintendent" means the chief administrative officer assigned full-time to a center.

SECTION 21. Arkansas Code § 20-48-205(b), concerning, the powers and duties of the Board of Developmental Disabilities Services, is amended to read as follows:

(b) The board may make ~~such regulations~~ rules respecting the care, custody, training, and discipline of individuals with intellectual and developmental disabilities in the centers or receiving intellectual and developmental disabilities services ~~for individuals with intellectual disabilities~~ and respecting the management of the centers and their affairs as it may deem necessary or desirable to the proper performance of its powers and purposes.

SECTION 22. Arkansas Code § 20-48-206(b), concerning the powers and duties of the Board of Developmental Disabilities Services related to human development centers and admissions, is amended to read as follows:

(b)(1) In this regard, admissions to the institutional facilities of the centers shall be on the basis of a determination by the board that:

(A) The individual involved is ~~intellectually disabled~~ an individual with intellectual and developmental disabilities;

(B) His or her parent or guardian has resided in the state not less than three (3) years before the date of the filing of the petition for his or her admission, or the individual involved is a dependent and a public charge or ward of the state or a political subdivision thereof;

(C) The welfare of the individual involved requires the special care, training, or education provided by institutional facilities of the center; and

(D) The board has adequate funds and institutional facilities available for the care, training, or education of the individual.

(2)(A) Also, the determination of whether an individual is ~~intellectually disabled~~ an individual with intellectual and developmental disabilities shall be made after there has been an investigation which shall include an examination by an evaluation team appointed by the board.

(B) The team shall be composed of two (2) or more

physicians, psychiatrists, psychologists, or other persons found by the board to be professionally qualified on the basis of training and experience in ~~mental retardation~~ intellectual and developmental disabilities services to make a determination as to whether the individual involved is ~~intellectually disabled~~ an individual with intellectual and developmental disabilities.

SECTION 23. Arkansas Code § 20-48-207 is amended to read as follows:

20-48-207. Board of Developmental Disabilities Services – Contracts for provision of services.

(a) If and to the extent necessary to accomplish the intended purpose of this subchapter to make available the broadest and most effective provision of intellectual and developmental disabilities services to those in need of the services, the Board of Developmental Disabilities Services is authorized to contract for the providing of intellectual and developmental disabilities services by other public agencies or private organizations.

(b) In this regard, the board ~~is authorized to promulgate regulations~~ may promulgate rules and fix standards necessary to properly ensure that such intellectual and developmental disabilities services are furnished in a proper and reasonable manner and on an economical basis.

SECTION 24. Arkansas Code § 20-48-208(a) and (b), concerning a license for facilities and institutions issued by the Board of Developmental Services, are amended to read as follows:

(a)~~(1)~~ The Board of Developmental Disabilities Services shall regulate the providing of intellectual and developmental disabilities services by private organizations and public agencies.

~~(1)~~ (2) The board shall promulgate ~~regulations~~ rules covering the issuance, suspension, and revocation of licenses and fixing the standards for construction, reconstruction, maintenance, and operation of institutions and facilities, or parts thereof, operated primarily for the providing of developmental disabilities services, unless the facilities or institutions in their entirety are licensed by the Office of Long-Term Care.

(b) ~~No~~ A public agency or private organization shall not operate any institution or facility for the provision of intellectual and developmental disabilities services unless it has a license in effect.

SECTION 25. Arkansas Code § 20-48-209 is amended to read as follows:

20-48-209. Board of Developmental Disabilities Services – Planning and implementation.

(a)(1) The Board of Developmental Disabilities Services is designated as the single state agency for the purpose of full participation under any federal act requiring the designation of a single state agency concerning planning, formulation, and implementation of programs, construction and operation of facilities, financing of facilities and programs, or otherwise pertaining to the obtaining and rendition of intellectual and developmental disabilities services.

(2) However, this shall not be construed as depriving other public agencies of jurisdiction over or the right to plan for and control and operate programs that pertain to intellectual and developmental disabilities services but which fall within the primary jurisdiction of other public agencies such as programs administered by the Arkansas School for the Deaf, Arkansas School for the Blind, ~~State Board of Career Education~~ Career Education and Workforce Development Board, State Board of Education, Department of Health, and the Department of Human Services.

(b)(1) The Board of Developmental Disabilities Services ~~is authorized to~~ may coordinate the planning and implementation of intellectual and developmental disabilities programs and institutional and community activities of all public agencies.

(2) However, this shall not be construed as depriving other public agencies of jurisdiction over or the right to plan for and control and operate programs that pertain to intellectual and developmental disabilities services but which fall within the primary jurisdiction of other public agencies such as programs administered by the Arkansas School for the Deaf, Arkansas School for the Blind, ~~State Board of Career Education~~ Career Education and Workforce Development Board, State Board of Education, Department of Health, and the Department of Human Services.

(c)(1) Effective planning and coordination is essential to the public interest.

(2) In order to achieve this to the fullest extent possible, the Board of Developmental Disabilities Services ~~is authorized to~~ may establish and promulgate ~~regulations~~ rules fixing standards for intellectual and developmental disabilities programs and activities and to evaluate

intellectual and developmental disabilities programs and activities of public agencies.

SECTION 26. Arkansas Code § 20-48-210(b), concerning the Deputy Director of the Division of Developmental Disabilities Services of the Department of Human Services, is amended to read as follows:

(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 and developmental disabilities services.

SECTION 27. Arkansas Code § 20-48-211 is amended to read as follows:

20-48-211. Board of Developmental Disabilities Services – Community centers.

(a)(1) The Board of Developmental Disabilities Services ~~is authorized to~~ may take the necessary action to establish and maintain, or to cause to be established and maintained, community centers, alone or together with public agencies or private organizations, at localities determined to be appropriate for the better providing of or for assistance in the providing of intellectual and developmental disabilities services for any region or locality in the state.

(2) Community centers may be organized on a formal or informal basis as shall be determined to best suit the circumstances at any particular region or locality, including without limitation organization under the provisions of the Arkansas Nonprofit Corporation Act, §§ 4-28-201 – 4-28-206 and 4-28-209 – 4-28-224.

(b)(1) Within the limits of available funds, a program for furnishing intellectual and developmental disabilities services shall be developed for each community center which may include a state grants-in-aid program.

(2) In this regard, the board ~~is authorized to~~ may promulgate ~~regulations~~ rules covering the establishment and operation of community centers, the formulation and implementation of intellectual and developmental disabilities programs and activities for community centers, and the funding of the programs and activities.

(c) The board is prohibited from promulgating any rule ~~or regulation~~ that would set the salary of any employee of a community-based program unless specifically required to do so by the United States Government.

SECTION 28. Arkansas Code § 20-48-301 and 20-48-302 are amended to read as follows:

20-48-301. Purpose.

It is the purpose of this subchapter to permit the Board of Developmental Disabilities Services, a division of the Department of Human Services, to cooperate with public agencies or private nonprofit organizations of adjoining states to provide services for residents of Arkansas ~~who are intellectually disabled or developmentally disabled~~ with intellectual or other developmental disabilities.

20-48-302. Authority to participate.

(a) Subject to the conditions and limitations contained in this subchapter, the Board of Developmental Disabilities Services may enter into agreements with public agencies, private nonprofit organizations, or combinations thereof from adjoining states for the purpose of performing its responsibility to the residents of Arkansas ~~who are intellectually disabled or developmentally disabled~~ with intellectual or other developmental disabilities.

(b) The agreements may include financial participation, using any funds that are at its disposal, to the extent that similar services would be performed within the state.

SECTION 29. Arkansas Code § 20-48-404 is amended to read as follows:

20-48-404. Eligibility for admission.

(a) An individual may be deemed eligible for admission to a human development center if+

~~(1)~~ due ~~due~~ to intellectual or other developmental disability, the person is incapable of managing his or her affairs and the person's welfare requires the special care, training, and treatment provided at a human development center.

~~(2)~~(b) The examining physicians provided for in § 20-48-406 shall use standard mental and psychological tests and physical examinations

in determining that the individual ~~is developmentally disabled~~ has intellectual or other developmental disabilities and is in need of special training ~~which~~ that is provided for in this subchapter.

SECTION 30. Arkansas Code § 20-48-413 is amended to read as follows:

20-48-413. Emotionally disturbed individuals with intellectual and developmental disabilities.

(a) The Board of Developmental Disabilities Services ~~is authorized to~~ may establish and operate an appropriate facility at such location in the state as it shall determine for the care and treatment of emotionally disturbed ~~intellectually disabled~~ individuals with intellectual or other developmental disabilities, and persons with disorganized behavior, including hyperkinetic, hyperactive, or aggressive behaviors who, because of their problem, function as ~~intellectually disabled~~ individuals with intellectual or other developmental disabilities.

(b) The board ~~is authorized to make such rules and regulations~~ may make rules regarding eligibility for admission to the facility, care and treatment of the individuals, discharge from and return to the facility, charges for the maintenance, care, and training of individuals admitted to the facility, and such other matters as the board shall deem necessary to carry out the most effective program for the care and treatment of emotionally disturbed ~~intellectually disabled~~ individuals with intellectual or other developmental disabilities of this state.

SECTION 31. Arkansas Code § 20-48-416(a) and (b), concerning the designation to carry out federal acts, are amended to read as follows:

(a) The Board of Developmental Disabilities Services is designated as the single state agency for carrying out the purposes of any act of Congress pertaining to individuals with intellectual or other developmental disabilities.

(b) The board ~~is authorized to~~ may take all action of every nature whatever necessary or desirable in complying with the requirements of any federal act and accomplishing the purposes thereof, including, without limitation:

(1) The receiving, handling, and disbursing of grants and funds appropriated by any federal act;

(2) The making of provisions to assure full consideration of all aspects of services essential to planning for comprehensive state and community action to combat intellectual or other developmental disabilities, including services in the fields of education, employment, rehabilitation, welfare, health, and the law, and services provided through community programs for and institutions for the individuals with intellectual or other developmental disabilities;

(3) The preparing and submitting of plans for expenditure of such grants and funds and providing the assurance required by any federal act as to carrying out the purposes of any federal act;

(4) The preparing and submitting of reports of the activities of the center in carrying out the purposes of any federal act in such form and containing such information as may be required by any federal act and keeping such records and affording access thereto necessary to assure correctness and verification of such reports as may be required by any federal act;

(5) The providing for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for grants and funds paid to the center in accordance with the requirements of any federal act; and

(6) The doing of all things and taking of all action to carry out any plans for expenditures of the grants and funds in accordance with and for the accomplishment of the purposes of any federal act.

SECTION 32. Arkansas Code §§ 20-48-601 and 20-48-602 are amended to read as follows:

20-48-601. Title.

This subchapter shall be known as the "Location Act for Community Homes for ~~Developmentally Disabled Persons~~ Individuals with Intellectual and Developmental Disabilities".

20-48-602. Purpose.

(a) The General Assembly declares that it is the goal of this subchapter to improve the quality of life of all ~~developmentally disabled persons~~ individuals with intellectual or other developmental disabilities and to integrate ~~developmentally disabled persons~~ individuals with intellectual or other developmental disabilities into the mainstream of society by

ensuring them the availability of community residential opportunities in the residential areas of this state.

(b) In order to implement this goal, this subchapter should be liberally construed toward that end.

SECTION 33. Arkansas Code § 20-48-603(1) and (2), concerning the definition of "developmental disability" under the Location Act For Community Homes for Developmentally Disabled Persons, are amended to read as follows:

(1)(A) "~~Developmental~~ Intellectual and developmental disability" means a disability of a person that:

(i) Is attributable to ~~intellectual disability,~~ impairment of general intellectual functioning or adaptive behavior, including without limitation cerebral palsy, spina bifida, Down syndrome, epilepsy, or autism;

(ii) Is attributable to any other condition of a person found to be closely related to an intellectual or other developmental disability as described in subdivision (1)(A)(i) of this section because it results in impairment of general intellectual functioning or adaptive behavior similar to that of individuals with intellectual or other developmental disabilities or requires treatment and services similar to those required for the persons;

(iii) Is attributable to dyslexia resulting from intellectual disability, cerebral palsy, epilepsy, or autism; and

(iv) Has continued or can be expected to continue indefinitely.

(B) "~~Developmental~~ Intellectual and developmental disability" does not refer to other forms of mental disease or defect not defined in this section;

(2) "~~Developmentally disabled person~~" "Individual with intellectual and developmental disabilities" means a person with ~~a~~ an intellectual and developmental disability as defined in this section;

SECTION 34. Arkansas Code § 20-48-605(a), concerning the issuance and renewal of licenses for the Location Act for Community Homes for Developmentally Disabled Persons, is amended to read as follows:

(a) For the purposes of safeguarding the health and safety of

~~developmentally disabled persons~~ individuals with intellectual or other developmental disabilities and avoiding over-concentration of Family Homes I and Family Homes II, either alone or in conjunction with similar community-based residences, the Division of Developmental Disabilities Services shall inspect and license the operation of family homes and may renew or revoke their licenses.

SECTION 35. Arkansas Code § 20-48-611(a), concerning the voidness of restrictions by private property agreement for the Location Act for Community Homes for Developmentally Disabled Persons, is amended to read as follows:

(a) Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property ~~which~~ that would permit residential use of property but prohibit the use of the property as a Family Home I or Family Home II for ~~developmentally disabled persons~~ individuals with intellectual or other developmental disabilities, to the extent of the prohibition, shall be void as against the public policy of this state and shall be given no legal or equitable force or effect.

SECTION 36. Arkansas Code § 20-48-705 is amended to read as follows:

20-48-705. Membership of nonprofit organizations.

A nonprofit organization licensed or certified by the Division of Developmental Disabilities Services of the Department of Human Services to serve adults shall include an individual with intellectual or other developmental disabilities as an ex officio member of the nonprofit organization's board of directors or other governing body.

SECTION 37. Arkansas Code § 20-49-101(3), concerning the definition of "incompetent" regarding sterilization of mental incompetents, is amended to read as follows:

(3) "Incompetent person" shall mean a person as to whom it is proved:

(A) He or she is incapable of caring for himself or herself by reason of intellectual and developmental disability, mental illness, imbecility, idiocy, or other mental incapacity;

(B) He or she manifests sexual inclinations which make it

probable that he or she will procreate children unless he or she is rendered incapable of procreation; and

(C) There is no probability that his or her condition will improve so that he or she will become capable of caring for himself or herself.

SECTION 38. Arkansas Code § 21-15-101(7), concerning the definition of "developmentally disabled person" as to criminal background checks for public officers and employees, is amended to read as follows:

(7) ~~"Developmentally disabled person"~~ "Individual with an intellectual and developmental disability" means a person with a disability that is attributable to:

(A) ~~Mental retardation,~~ Impairment of general intellectual functioning or adaptive behavior, including without limitation cerebral palsy, spina bifida, Down syndrome, epilepsy, or autism;

(B) Dyslexia resulting from a disability associated with ~~mental retardation~~ intellectual and developmental disabilities, cerebral palsy, epilepsy, or autism; or

(C) Any other condition found to be closely related to ~~mental retardation~~ intellectual and developmental disabilities as described in subdivision (7)(A) of this section because it results in an impairment of general intellectual functioning or adaptive behavior similar to those of ~~mentally retarded~~ persons with intellectual and developmental disabilities or requires treatment and services similar to those required for ~~mentally retarded~~ persons with intellectual and developmental disabilities;

SECTION 39. Arkansas Code § 23-75-111(b)(1), concerning subscription contracts relating to hospital and medical service corporations, is amended to read as follows:

(b)(1) In any hospital service corporation contract, any medical service corporation contract, or any hospital and medical service corporation contract, whether group or individual, that contains a provision whereby coverage of a dependent in a family group terminates at a specified age, there shall also be a provision that coverage of an unmarried dependent who is incapable of sustaining employment by reason of ~~mental retardation~~ intellectual and developmental disability or physical disability, who became

so incapacitated prior to the attainment of nineteen (19) years of age and who is chiefly dependent upon the contract holder or certificate holder for support and maintenance, shall not terminate, but coverage shall continue so long as the contract or certificate remains in force and so long as the dependent remains in such a condition.

SECTION 40. Arkansas Code § 23-85-131(b)(1), concerning age limits and exceptions to age limits relating to accident and health insurance, is amended to read as follows:

(b)(1) In any accident and health insurance contract that contains a provision whereby coverage of a dependent in a family group terminates at a specified age, there shall also be a provision that coverage of an unmarried dependent who is incapable of sustaining employment by reason of ~~mental retardation~~ intellectual and developmental disability or physical disability, who became so incapacitated prior to the attainment of nineteen (19) years of age, and who is chiefly dependent upon the policyholder for support and maintenance shall not terminate, but coverage shall continue so long as the contract remains in force and so long as the dependent remains in such condition.

SECTION 41. Arkansas Code § 23-86-102(c)(8)(A), concerning blanket accident and health insurance required provisions, is amended to read as follows:

(8)(A) In any contract that contains a provision whereby coverage of a dependent in a family group terminates at a specified age, there shall also be a provision that coverage of an unmarried dependent who is incapable of sustaining employment by reason of ~~mental retardation~~ intellectual and developmental disability or physical disability, who became so incapacitated prior to the attainment of nineteen (19) years of age, and who is chiefly dependent upon the employee for support and maintenance shall not terminate, but coverage shall continue so long as the contract remains in force and so long as the dependent remains in such condition.

SECTION 42. Arkansas Code § 23-86-108(4)(A), concerning group accident and health insurance required provisions, is amended to read as follows:

(4)(A) In any contract that contains a provision whereby

coverage of a dependent in a family group terminates at a specified age, there shall also be a provision that coverage of an unmarried dependent who is incapable of sustaining employment by reason of ~~mental retardation~~ intellectual and developmental disability or physical disability, who became so incapacitated prior to the attainment of nineteen (19) years of age and who is chiefly dependent upon the employee for support and maintenance, shall not terminate, but coverage shall continue so long as the coverage of the employee or member remains in force and so long as the dependent remains in such condition.

SECTION 43. Arkansas Code § 25-10-113(b), concerning the disposition of direct services funds by the Department of Human Services, is amended to read as follows:

(b) It is the specific intent of this act to prevent the diversion of community grant-in-aid line funds for any purpose that would not provide direct services to ~~developmentally disabled~~ clients with intellectual or other developmental disabilities in community programs.