

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

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H3/25/19
A Bill

SENATE BILL 273

By: Senator Bledsoe
By: Representative L. Johnson

For An Act To Be Entitled

AN ACT TO CLARIFY THAT AN EXPERT WITNESS TESTIFYING OR OFFERING OPINIONS REGARDING AN ADMINISTRATIVE PROCEEDING BEFORE A BOARD OF ANY PROFESSION OR OCCUPATION CLASSIFIED UNDER THE LAWS OF THE STATE OF ARKANSAS AS A PROFESSION OF THE HEALING ARTS HAS IMMUNITY; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THAT AN EXPERT WITNESS TESTIFYING OR OFFERING OPINIONS REGARDING AN ADMINISTRATIVE PROCEEDING BEFORE A BOARD OF ANY PROFESSION OR OCCUPATION CLASSIFIED AS A PROFESSION OF HEALING ARTS HAS IMMUNITY.

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

SECTION 1. Arkansas Code § 17-80-103 is amended to read as follows:

17-80-103. Immunity of board members and individuals acting on behalf of boards including expert witnesses.

No A member of a board or any individual acting on behalf of the board of any profession or occupation classified under the laws of the State of Arkansas as a profession of the healing arts, including an expert witness testifying or offering opinions, or both, regarding an administrative proceeding before a board of a profession or occupation classified as a



profession of the healing arts, shall be is not liable in damages to any person for slander, libel, defamation of character, breach of any privileged communication, or otherwise for any action taken or recommendation made within the scope of the functions of the board if the board member or the individual acting on behalf of the board, including an expert witness testifying or offering opinions, or both, regarding an administrative proceeding before a board of a profession or occupation classified as a profession of the healing arts, acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to him or her after a reasonable effort is made to obtain the facts on which the action is taken or the recommendation is made.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that boards of any profession or occupation classified under the laws of this state as a profession of healing arts often utilize expert witnesses; that the boards are having difficulty finding expert witnesses willing to testify because expert witnesses are not explicitly granted immunity from suit and judgment and may be subject to lawsuits based on their testimonies or opinions; that the powers of the boards are impaired by the difficulty of finding expert witnesses to testify, which hinders the boards' statutory duty to protect the health and welfare of the citizens of the State of Arkansas; that granting immunity from suit and judgment to expert witnesses testifying or offering opinions, or both, regarding an administrative proceeding before boards is a clarification of the existing law that would help protect the health and welfare of the citizens of the State of Arkansas; and that this act is immediately necessary to ensure the boards can fulfill their statutory duty to protect of health and welfare of the citizens of the State of Arkansas. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is

overridden, the date the last house overrides the veto.

/s/Bledsoe