

By: Senators B. Ballinger, T. Garner, Flippo  
By: Representatives Gonzales, Pilkington, Cloud, Sullivan, McCollum

## **SENATE RESOLUTION**

TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION  
BILL TO PROHIBIT ELECTIVE PROCEDURES DURING THE  
CORONAVIRUS DISEASE 2019, ALSO KNOWN AS COVID-19,  
PUBLIC HEALTH EMERGENCY.

### **Subtitle**

TO AUTHORIZE THE INTRODUCTION OF A  
NONAPPROPRIATION BILL TO PROHIBIT  
ELECTIVE PROCEDURES DURING THE  
CORONAVIRUS DISEASE 2019, ALSO KNOWN AS  
COVID-19, PUBLIC HEALTH EMERGENCY.

BE IT RESOLVED BY THE SENATE OF THE 92ND GENERAL ASSEMBLY OF THE STATE OF  
ARKANSAS:

THAT Senator Ballinger is authorized to introduce a bill which as  
introduced will read substantially as follows:

"For An Act To Be Entitled

AN ACT TO PROHIBIT ELECTIVE PROCEDURES DURING THE CORONAVIRUS DISEASE 2019,  
ALSO KNOWN AS COVID-19, PUBLIC HEALTH EMERGENCY; TO DECLARE AN EMERGENCY; AND  
FOR OTHER PURPOSES.

Subtitle

TO PROHIBIT ELECTIVE PROCEDURES DURING THE CORONAVIRUS DISEASE 2019, ALSO  
KNOWN AS COVID-19, PUBLIC HEALTH EMERGENCY; AND TO DECLARE AN EMERGENCY.



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

SECTION 1. DO NOT CODIFY. TEMPORARY LANGUAGE. Prohibition on elective procedures – Definitions.

(a) As used in this section:

(1) "Healthcare facility" means a licensed office or institution providing care or treatment of medical conditions and diseases, whether physical, mental, or emotional, or of other medical, physiological, or psychological conditions, including weight control clinics, facilities for individuals with chronic illness, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions; and

(2) "Healthcare professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession.

(b)(1) Except as provided in subdivision (b)(2) of this section, during the public health emergency related to coronavirus disease 2019, also known as COVID-19, a healthcare professional or a healthcare facility shall postpone a surgery or medical procedure that is not immediately medically necessary to correct a serious medical condition of, or to preserve the life of, a patient who without immediate performance of the surgery or medical procedure would be at risk for serious adverse medical consequences or death, as determined by the patient’s physician.

(2) This section does not apply to any surgery or medical procedure that would not deplete the hospital capacity or the personal protective equipment needed to cope with public health emergency related to the coronavirus disease 2019, also known as COVID-19, if the surgery or medical procedure is performed in accordance with the commonly accepted standard of clinical practice.

(c)(1) If a healthcare professional or healthcare facility violates this section, then the healthcare professional or healthcare facility shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or to imprisonment not exceeding one (1) month, or both.

(2) Each occurrence of an elective procedure in violation of

this section shall constitute a separate offense.

SECTION 2. DO NOT CODIFY. TEMPORARY LANGUAGE AND SUSPENSION OF CURRENT LAW.

(a) This act is cumulative of existing laws and does not repeal any law in conflict with this act.

(b) The provisions of this act are temporary and expire when the Governor or the Secretary of the Department of Health declares that:

(1) The public health emergency related to coronavirus disease 2019, also known as COVID-19, is ended; or

(2) The provisions of this act are no longer needed to cope with the public health emergency related to coronavirus disease 2019, also known as COVID-19.

(c) On and after the declaration that the public health emergency related to coronavirus disease 2019, also known as COVID-19, has ended, the provisions of law suspended by this act shall be in full force and effect.

(d) The expiration of this act shall not affect any rights acquired under this act or any pending lawsuits related to this act.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that coronavirus disease 2019, also known as COVID-19, was declared a public health emergency by the Governor on March 11, 2020; that the Department of Health and the State Board of Health issued guidance on March 21, 2020 and a directive on April 3, 2020 to postpone or reschedule elective procedures; that healthcare professionals and healthcare facilities have expressed confusion as to what elective procedures are covered by the guidance and directive; and that this act is immediately necessary to clarify the existing directives from the Department of Health and the State Board of Health on elective procedures and to protect the citizens of Arkansas from needlessly contracting coronavirus disease 2019, also known as COVID-19, through elective procedures. 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."