

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

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1216

By: Representative Dotson
By: Senator J. Dismang

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS LAW CONCERNING THE
CODIFICATION OF ADMINISTRATIVE RULES; TO REVISE
CERTAIN ARKANSAS LAWS CONCERNING ADMINISTRATIVE RULES
TO ALLOW FOR THE DEVELOPMENT OF THE CODE OF ARKANSAS
RULES; AND FOR OTHER PURPOSES.

Subtitle

TO REVISE CERTAIN ARKANSAS LAWS
APPLICABLE TO ADMINISTRATIVE RULES TO
ALLOW FOR THE DEVELOPMENT OF THE CODE OF
ARKANSAS RULES.

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

SECTION 1. Arkansas Code § 1-2-124 is amended to read as follows:

1-2-124. Respectful language – Disabilities – Definition.

(a)(1) The General Assembly recognizes that language used in reference to individuals with disabilities shapes and reflects society's attitudes toward people with disabilities. Many of the terms currently used demean the humanity and natural condition of having a disability. Certain terms are demeaning and create an invisible barrier to inclusion as equal community members.

(2) The General Assembly finds it necessary to clarify preferred language for new and revised laws and administrative rules by requiring the use of terminology that puts the person before the disability.



(b)(1) In any bill or resolution, the Bureau of Legislative Research shall avoid all references to:

- (A) “Disabled”;
- (B) “Developmentally disabled”;
- (C) “Mentally disabled”;
- (D) “Mentally ill”;
- (E) “Mentally retarded”;
- (F) “Handicapped”;
- (G) “Cripple”; and
- (H) “Crippled”.

(2) The Arkansas Code Revision Commission shall change such references in any existing statute or resolution as sections including these references are republished or otherwise amended by law.

(3) The Bureau of Legislative Research and the Arkansas Code Revision Commission shall replace the inappropriate terms in subdivision (b)(1) of this section with the following terms:

- (A) “Individuals with disabilities”;
- (B) “Individuals with developmental disabilities”;
- (C) “Individuals with mental illness”; and
- (D) “Individuals with intellectual disabilities”.

(c)(1) In any administrative rule, a state agency shall avoid the inappropriate terms in subdivision (b)(1) of this section and shall use the terms in subdivision (b)(3) of this section.

(2) The Bureau of Legislative Research shall:

(A) Replace in the Code of Arkansas Rules the inappropriate terms in subdivision (b)(1) of this section with the terms in subdivision (b)(3) of this section when:

(i) A section of the Code of Arkansas Rules is created or amended and the state agency did not make the change during the promulgation process; or

(ii) The Bureau of Legislative Research identifies in a section of the Code of Arkansas Rules an inappropriate term in subdivision (b)(1) of this section; and

(B) Consult with the state agency that promulgated the section of the Code of Arkansas Rules that contains the inappropriate term in subdivision (b)(1) of this section when making the change.

~~(2)~~(3) If a state agency identifies a use of an inappropriate term under subdivision (b)(1) of this section in a rule, the state agency shall:

(A) ~~promulgate~~ Promulgate a revision to the rule to replace the inappropriate term with a term under subdivision (b)(3) of this section; and

(B) Request the Bureau of Legislative Research to make the change in the Code of Arkansas Rules under subdivision (c)(2) of this section.

~~(3)~~(4) As used in this subsection, "state agency" means any office, board, commission, department, council, bureau, or other agency of state government having authority by statute enacted by the General Assembly to promulgate or enforce administrative rules.

(d) A statute, resolution, or rule is not invalid because it does not comply with this section.

SECTION 2. Arkansas Code § 25-15-202(9)(B), concerning exceptions to the definition of "rule" under the Arkansas Administrative Procedure Act, is amended to read as follows:

(B) "Rule" does not mean:

(i) A statement that concerns the internal management of a state agency and that does not affect the private rights or procedures available to the public;

(ii) A declaratory order or ruling issued under § 25-15-206 or other provision of law applicable to the state agency issuing the declaratory order or ruling;

(iii) Intra-agency memoranda; ~~or~~

(iv) A medical code within the Arkansas Medicaid Program that is issued by the Centers for Medicare and Medicaid Services, including without limitation:

(a) Current Procedural Terminology codes;

(b) Healthcare Common Procedure Coding System codes;

(c) International Classification of Diseases codes;

(d) National Uniform Billing Committee

Official UB-04 Specifications Manual codes; and

(e) National Correct Coding Initiative codes;

(v) The addition of formatting to one (1) or more rules, including without limitation one (1) or more sections of the Code of Arkansas Rules, in order to create a handbook, manual, pamphlet, or other similar publication for the purpose of packaging or distributing materials for public use, including without limitation the addition of:

(a) A cover or title page;

(b) A table of contents; or

(c) An index;

(vi) A technical correction under § 25-15-218; or

(vii)(a) Unless required by law to be promulgated as a rule, a form developed by an agency to implement or interpret a rule.

(b) A form under subdivision

(9)(B)(vii)(a) of this section shall not contain language that otherwise meets the definition of a rule under subdivision (9)(A) of this section unless:

(1) The language is derived from an existing law or rule; and

(2) A citation to the existing law or rule is included on the form; and

SECTION 3. Arkansas Code § 25-15-218 is amended to add an additional subsection to read as follows:

(f)(1) The bureau may make a technical correction to a rule codified in the Code of Arkansas Rules:

(A) Pursuant to the request of an agency; or

(B)(i) Upon the bureau's own initiative.

(ii)(a) Before making a technical correction under subdivision (f)(1)(B)(i) of this section, the bureau shall consult with the agency that promulgated the rule for which the correction is necessary.

(b) An agency that objects to a technical correction made by the bureau under subdivision (f)(1)(B)(i) of this section may appeal the technical correction in the same manner that an agency may appeal the form of a codification of a rule under subdivision (a)(1)(C)(ii) of this section.

(2) Technical corrections under this subsection (f) may include without limitation changes to:

- (A) A website address;
- (B) A physical address;
- (C) A phone number; and
- (D) Contact information.

(3) When making a technical correction under this subsection, the bureau shall not change the substance or meaning of a rule.

SECTION 4. Uncodified Section 6 of Acts 2019, No. 662, is amended to read as follows:

SECTION 6. DO NOT CODIFY. (a) No later than December 31, 2019, each agency subject to § 25-15-218 shall transmit to the Bureau of Legislative Research an electronic version of each rule that has been adopted and is currently in effect.

(b) The Bureau of Legislative Research shall:

(1) Inform each agency of the format in which rules shall be transmitted under subsection (a) of this section;

(2) Submit a report on the status of the codification to the Legislative Council on January 1, April 1, July 1, and October 1 of each year until the codification is complete; and

(3)(A) Complete the codification of the Code of Arkansas Rules required in this act by January 1, ~~2023~~ 2024.

(B) The Legislative Council may extend the date under subdivision (b)(3)(A) of this section.

(c)(1) To promote the efficient development of a Code of Arkansas Rules, the Bureau of Legislative Research shall work with the Governor's Office to coordinate and direct agencies in the effort to develop the Code of Arkansas Rules.

(2) The Bureau of Legislative Research may establish a phased approach which requires agencies to submit portions of their rules before December 31, 2019.