

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

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: S3/17/21
A Bill

SENATE BILL 376

By: Senator L. Chesterfield
By: Representatives Scott, Richardson

For An Act To Be Entitled

AN ACT PROHIBITING A LAW ENFORCEMENT AGENCY FROM DENYING MEDICAL CARE TO A PERSON IN CUSTODY; TO PROVIDE FOR CIVIL AND CRIMINAL ACTIONS FOR DENYING MEDICAL CARE TO A PERSON IN CUSTODY; REQUIRING TRAINING BY CORRECTIONAL FACILITY PERSONNEL; AND FOR OTHER PURPOSES.

Subtitle

PROHIBITING THE DENIAL OF MEDICAL CARE TO A PERSON IN CUSTODY; TO PROVIDE FOR CIVIL AND CRIMINAL ACTIONS FOR DENYING MEDICAL CARE TO A PERSON IN CUSTODY; AND TO REQUIRE TRAINING.

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

SECTION 1. Arkansas Code Title 5, Chapter 60, Subchapter 1, is amended to add an additional section to read as follows:

5-60-126. Denial of medical care prohibited – Law enforcement agency and correctional facility.

(a) As used in this section:

(1) "Correctional facility" includes without limitation a:

(A) Facility of the Division of Correction;

(B) Facility of the Division of Community Correction;

(C) Juvenile detention facility;

(D) County jail;



(E) Regional detention facility;

(F) City jail; and

(G) Detention facility operated by a local government; and

(2) "Medical distress" includes without limitation the following conditions:

(A) Breathing difficulty;

(B) A migraine headache;

(C) An adverse mental health episode;

(D) Muscle pain; and

(E) A need for immediate medical care.

(b)(1) An employee of a law enforcement agency or a correctional facility who negligently fails to make a good faith effort to obtain immediate medical attention for or provide immediate medical attention to a person in custody who displays signs of medical distress in the employee's presence and suffers unnecessary pain, physical injury, or death as a result of the failure upon conviction is guilty of a Class A misdemeanor.

(2) An immediate supervisor of an employee who violates subdivision (b)(1) of this section upon conviction is guilty of a Class A misdemeanor.

SECTION 2. Arkansas Code Title 12, Chapter 26, is amended to add an additional section to read as follows:

12-26-110. Persons in custody – Medical distress – Training.

(a) As used in this section, "medical distress" means the same as defined in § 5-60-126.

(b) A state agency, county sheriff, political subdivision, or other entity that is authorized to hold or house a person in custody shall provide training in first aid and in the identification of various signs of medical distress for all employees who have or will have contact with persons in custody.

SECTION 3. Arkansas Code Title 12, Chapter 41, Subchapter 1, is amended to add an additional section to read as follows:

12-41-109. Denial of medical care to person in custody – Investigation and prosecution.

(a)(1)(A) If a person has reasonable cause to believe that he or she

has been unlawfully denied medical care while he or she is being or has been held in custody, the person may bring a civil action in the circuit court with jurisdiction or, subject to the laws governing the federal judiciary, in a United States District Court to obtain appropriate equitable and declaratory relief.

(B) If authorized by the Arkansas Constitution, sovereign immunity is not a bar to an action under this section.

(2) The Prosecutor Coordinator shall establish a method that permits a person with knowledge about the denial of medical care to a person in custody to submit an anonymous and confidential complaint or report of that knowledge.

(b) If a prosecuting attorney with jurisdiction has probable cause to believe that a person who is being or has been held in custody has been unlawfully denied medical care, the prosecuting attorney may bring criminal charges in the circuit court with jurisdiction.

/s/L. Chesterfield