

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

State of Arkansas
95th General Assembly
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As Engrossed: S4/3/25

A Bill

SENATE BILL 451

By: Senator Hester

By: Representatives R. Scott Richardson, D. Garner, Lundstrum

For An Act To Be Entitled

AN ACT CONCERNING STUDENT MENTAL HEALTH; TO REQUIRE THE DEPARTMENT OF *HUMAN SERVICES* AND THE DEPARTMENT OF EDUCATION TO ESTABLISH REGIONAL BEHAVIORAL HEALTH *PROGRAMS*; TO AMEND THE LAW CONCERNING THE EDUCATION OF STUDENTS PLACED IN JUVENILE DETENTION FACILITIES; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE THE DEPARTMENT OF HUMAN SERVICES AND THE DEPARTMENT OF EDUCATION TO ESTABLISH REGIONAL BEHAVIORAL HEALTH PROGRAMS; TO AMEND THE LAW CONCERNING THE EDUCATION OF CERTAIN STUDENTS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code Title 6, Chapter 18, Subchapter 1, is amended to add an additional section to read as follows:

6-18-116. Behavioral health programs.

(a) No later than January 1, 2026, the Department of Human Services, as the Medicaid agency, in consultation with the Department of Education shall establish regional behavioral health programs to assist public school districts and open-enrollment public charter schools with locating the appropriate services for a student who demonstrates a behavior that is substantially likely to cause injury to the student, other students, or staff.



(b) A behavioral health program shall:

(1) Respond to a request from a public school district or an open-enrollment public charter school within forty-eight (48) hours of notification of the request; and

(2) Work with a referring public school district or open-enrollment public charter school and the family of a student referred under this section to develop a behavioral health management plan for a student who demonstrates behavior that is substantially likely to cause injury to the student, other students, or staff.

(c) A behavioral health management plan developed under subdivision (c)(2) of this section shall include without limitation:

(1) The appropriate services for a student referred under this section and his or her family; and

(2) A plan for transitioning a student referred under this section back to his or her public school district or open-enrollment public charter school when the student is no longer demonstrating a behavior that is substantially likely to cause injury to the student, other students, or staff.

(d) By January 1, 2026, the Department of Human Services shall:

(1) Develop behavior health programs to adequately meet the needs of Arkansas students; and

(2)(A) Collaborate with the Department of Education to identify regional alternative learning environments to repurpose the locations to be utilized for a behavior health program.

(B) If an alternative learning environment is not available in a region, the Department of Human Services and Department of Education shall identify a location within the region to be utilized for a behavior health program.

(e) The Department of Human Services and the Department of Education shall develop appropriate funding sources for students referred to a behavior health program under this section and who do not have the ability to pay for care.

(f) A behavior health program shall:

(1) Provide the necessary treatment for a student who demonstrates a behavior that is substantially likely to cause injury to the student, other students, or staff; and

(2) A program does not establish exclusionary policies for admittance or removal that directly relate to the:

(A) Level of services needed by a student referred under this section;

(B) Level of danger posed by a student referred under this section;

(C) Level of intellectual functioning of a student referred under this section; or

(D) Disability status of a student referred under this section.

(g) The Department of Education shall provide funding for the education of students in approved residential or inpatient facilities in accordance with § 6-20-107.

SECTION 2. Arkansas Code § 6-18-202(a)(2), concerning the definition of "reside" as it pertains to age and residency requirements for attending public schools, is amended to read as follows:

(2)(A) "Reside" means to be physically present and to maintain a permanent place of abode for an average of no less than four (4) calendar days and nights per week for a primary purpose other than school attendance.

(B) "Reside" does not include an out-of-state student placed in a residential facility in Arkansas;

SECTION 3. Arkansas Code § 6-20-104 is amended to read as follows:

6-20-104. Reimbursement for educational services provided in juvenile detention facilities – Definition.

(a)(1) As used in this section, "juvenile detention facility" means any facility operated by a political subdivision of the state for the temporary care of juveniles alleged to be delinquent, or adjudicated delinquent, who require secure custody in a physically restricting facility.

(2) Under § 9-27-330(a)(11), ~~such a~~ juvenile detention facility ~~must~~ shall provide educational and other rehabilitative services to adjudicated delinquents who may be ordered by the court to remain in the juvenile detention facility for an indeterminate period not to exceed ninety (90) days.

(b)(1) Upon disposition by the juvenile court that an adjudicated

juvenile shall stay in a juvenile detention facility for any period of time, the facility shall notify the juvenile's resident school district of his or her whereabouts and within five (5) days after the juvenile is released shall certify the detention dates to the district.

(2) ~~The school district where the facility is located and the juvenile detention facility shall jointly~~ be responsible for providing educational services to students placed in the juvenile detention facility and shall complete an application for funding to be based on the approved student capacity of the facility and shall submit the application to the Division of Elementary and Secondary Education.

~~(3) If the amount of state funds due cannot be agreed upon by the juvenile detention facility and the school district where the facility is located, an appeal shall be made to the division. All decisions rendered shall be final.~~

(3)(A) A juvenile detention facility may partner with a public school district, an open-enrollment public charter school, or a private educational provider to provide educational services.

(B) An agreement for educational services under subdivision (b)(3)(A) of this section shall be outlined in a memorandum of understanding and included in the application for funding submitted under subdivision (b)(2) of this section.

(4) The division shall monitor educational services provided under this section.

(c) The division shall issue rules for the effective implementation of this section, including:

(1) ~~The classification of~~ Classifying juvenile detention ~~centers facilities~~ as approved residential treatment facilities;

(2) ~~The designation of the~~ Designating juvenile detention facility ~~and the district where the juvenile detention facility is located facilities~~ as responsible for educating ~~the student~~ students consistent with federal and state laws for any period of time ~~the student is~~ students are being held in the juvenile detention facility; and

(3) ~~The designation of~~ Designating the resident district of a student who is being held in a juvenile detention facility as responsible for the timely transfer of a the student's educational records to the ~~district where the juvenile detention facility is located~~ upon notification by the

court of the student's placement in a the juvenile detention facility.

(d) The funds appropriated to the division for juvenile detention facilities shall be allocated in accordance with rules promulgated by the State Board of Education.

SECTION 4. Arkansas Code § 6-20-107 is amended to read as follows:

6-20-107. Educational cost reimbursement prohibition — ~~Definition.~~

~~(a) As used in this section, "juvenile" means a person who is eighteen (18) years of age or younger.~~

~~(b)(1)(a)(1) The Division of Elementary and Secondary Education, a public school district, or an open enrollment public charter school shall not be liable for any educational costs or other related costs associated with the placement of a juvenile in an out-of-state residential or inpatient facility for any care and treatment, including psychiatric treatment, unless:~~

(A) At the time of placement, the juvenile's physician determines that the out-of-state placement is medically necessary and is the most appropriate placement available;

~~(B) The division authorizes public payment for educational costs based on a determination that the educational program and facilities are appropriate for the juvenile and the division has approved the facility's educational program;~~

(C)(i) Each educational program authorization precedes the placement.

(ii) If the educational program is not authorized before placement, the division, ~~public school districts, or open enrollment public charter schools~~ shall not be responsible for educational or other related costs, nor shall ~~they~~ the division be subject to any order to pay for educational or other related costs; and

(D) The out-of-state residential or inpatient facility is located within a state that borders Arkansas.

(2) Payment under this subsection shall be:

(A) Limited to twenty (20) students at any one (1) time during a calendar year unless:

(i) The juvenile under subdivision ~~(b)(1)~~ (a)(1) of this section qualifies as ~~disabled~~ a child with a disability under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and

(ii) Payment is required under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and

(B) Subject to the availability of division funding.

~~(e)(b)~~ The division, ~~a public school district, or an open-enrollment public charter school~~ shall not be liable for any educational costs or other related costs associated with the placement of a juvenile in an in-state residential or inpatient facility for any care and treatment, including psychiatric treatment, unless:

(1) The division ~~authorizes public payment for educational costs based on a determination that the educational program and facilities are appropriate for the juvenile and the division~~ has approved the facility's educational program; and

(2)(A) Each educational program authorization precedes the placement.

(B) If the educational program is not authorized before the placement, the division, ~~public school districts, or open-enrollment public charter schools~~ shall not be responsible for education or other related costs, nor shall ~~they~~ the division be subject to any order to pay for educational or other related costs.

~~(d)(c)~~ The liability of the division, ~~a public school district, or an open-enrollment public charter school~~ for the educational costs or other related costs described in subsections (a) and (b) ~~and (e)~~ of this section shall be limited to the lesser of:

(1) The reimbursement rate established by the division for a juvenile placed in a residential or inpatient facility; or

(2) The normal and customary educational cost reimbursement rate of the state in which a juvenile is placed in an out-of-state residential or inpatient facility as determined by the division.

~~(e)(d)~~ This section shall not apply to a juvenile placed in an Arkansas juvenile detention facility as defined in § 6-20-104.

~~(f)(e)~~ Nothing in this section shall be construed to require payment by the division, a public school district, or an open-enrollment public charter school for educational costs and other related costs associated with the placement of a juvenile in an out-of-state residential or inpatient facility for any care or treatment, including psychiatric treatment, before April 7, 2005.

~~(g)~~(f) The funds appropriated to the division for residential or inpatient facilities shall be:

(1) Be allocated in accordance with rules promulgated by the State Board of Education; and

(2) Not be used for the provision of education or other related costs for out-of-state students placed in Arkansas residential facilities.

SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Safe Schools Initiative Act requires public schools to establish behavioral threat assessment teams to address public school safety and security; that behavioral threat assessment teams established by public schools shall follow best practices for team composition and process; that student mental health poses an ongoing crisis and can pose immediate threats in public schools; that public schools are consistently identifying certain students as imminent threats, but day treatment and mental health placements and services are unavailable for students who need these placements and services; and that this act is immediately necessary to ensure that the Department of Human Services and the Department of Education establish regional behavioral health programs in order to address immediate public school safety and security needs. 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/Hester