

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4
5 By: Senator K. Hammer
6

A Bill

SENATE BILL 221

For An Act To Be Entitled

8 AN ACT TO CREATE THE AL HUNT ACT; TO MODERNIZE THE
9 PROVISIONS WITHIN THE ARKANSAS CODE TO REMOVE
10 REFERENCES TO THE TERMS "MENTAL RETARDATION" AND
11 "MENTALLY RETARDED"; AND FOR OTHER PURPOSES.
12
13

Subtitle

14 TO CREATE THE AL HUNT ACT; AND TO
15 MODERNIZE THE PROVISIONS WITHIN THE
16 ARKANSAS CODE TO REMOVE REFERENCES TO THE
17 TERMS "MENTAL RETARDATION" AND "MENTALLY
18 RETARDED".
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. DO NOT CODIFY. Title.

25 This act shall be known and may be cited as the "Al Hunt Act".
26

27 SECTION 2. DO NOT CODIFY. Legislative intent.

28 It is the intent of the General Assembly to:

29 (1) Make a nonsubstantive change in provisions of the Arkansas
30 Code to remove the outdated use of the terms "mental retardation" and
31 "mentally retarded" where appropriate;

32 (2) Not alter the scope or applicability of any existing statute
33 in which the terms "mental retardation" and "mentally retarded" appear;

34 (3) Honor Al Hunt of Little Rock who was born in 2003 and
35 diagnosed with Down syndrome and who advocates on behalf of himself and his
36 peers for removal of outdated and deprecating language in the Arkansas Code;



1 and

2 (4) To treat individuals with intellectual and other
3 developmental disabilities with respect and dignity in the Arkansas Code.

4
5 SECTION 3. Arkansas Code § 4-88-201(b), concerning the definition of
6 "disabled person" under deceptive trade practices, is amended to read as
7 follows:

8 (b) "Disabled person" means a person who has a physical or mental
9 impairment which substantially limits one (1) or more of such person's major
10 life activities.

11 (1) As used in this subsection, "physical or mental impairment"
12 means any of the following:

13 (A) Any physiological disorder or condition, cosmetic
14 disfigurement, or anatomical loss substantially affecting one (1) or more of
15 the following body systems: neurological; musculoskeletal; special sense
16 organs; respiratory, including speech organs; cardiovascular; reproductive;
17 digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

18 (B) Any mental or psychological disorder, ~~such as mental~~
19 ~~retardation~~ including intellectual and developmental disabilities, organic
20 brain syndrome, emotional or mental illness, and specific learning
21 disabilities.

22 (2) The term "physical or mental impairment" includes, but is
23 not limited to, such diseases and conditions as orthopedic, visual, speech
24 and hearing impairment, cerebral palsy, spina bifida, Down syndrome,
25 epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease,
26 diabetes, ~~mental retardation~~ intellectual and developmental disabilities, and
27 emotional illness.

28
29 SECTION 4. Arkansas Code § 5-4-618 is amended to read as follows:

30 5-4-618. ~~Mental retardation~~ Defendants with intellectual disabilities.

31 (a)(1) As used in this section, "~~mental retardation~~" "intellectual
32 disabilities" means:

33 (A) Significantly ~~subaverage~~ below average general
34 intellectual functioning accompanied by a significant deficit or impairment
35 in adaptive functioning manifest in the developmental period, but no later
36 than age eighteen (18) years of age; and

1 (B) A deficit in adaptive behavior.

2 (2) There is a rebuttable presumption of ~~mental retardation~~
 3 intellectual disabilities when a defendant has an intelligence quotient of
 4 sixty-five (65) or below.

5 (b) No defendant with ~~mental retardation~~ intellectual disabilities at
 6 the time of committing capital murder shall be sentenced to death.

7 (c) The defendant has the burden of proving ~~mental retardation~~
 8 intellectual disabilities at the time of committing the offense by a
 9 preponderance of the evidence.

10 (d)(1) A defendant on trial for capital murder shall raise the special
 11 sentencing provision of ~~mental retardation~~ intellectual disabilities by
 12 motion prior to trial.

13 (2)(A) Prior to trial, the court shall determine if the
 14 defendant has ~~mental retardation~~ intellectual disabilities.

15 (B)(i) If the court determines that the defendant does not
 16 have ~~mental retardation~~ intellectual disabilities, the defendant may raise
 17 the question of ~~mental retardation~~ intellectual disabilities to the jury for
 18 determination de novo during the sentencing phase of the trial.

19 (ii) At the time the jury retires to decide
 20 mitigating and aggravating circumstances, the jury shall be given a special
 21 verdict form on ~~mental retardation~~ intellectual disabilities.

22 (iii) If the jury unanimously determines that the
 23 defendant had ~~mental retardation~~ intellectual disabilities at the time of the
 24 commission of capital murder, then the defendant will automatically be
 25 sentenced to life imprisonment without possibility of parole.

26 (C) If the court determines that the defendant has ~~mental~~
 27 ~~retardation~~ intellectual disabilities, then:

28 (i) The jury is not “death qualified”; and

29 (ii) The jury shall sentence the defendant to life
 30 imprisonment without possibility of parole upon conviction.

31 (e) However, this section is not deemed to:

32 (1) Require unanimity for consideration of any mitigating
 33 circumstance; or

34 (2) Supersede any suggested mitigating circumstance regarding
 35 mental defect or disease currently found in § 5-4-605.

36

1 SECTION 5. Arkansas Code § 9-28-402(12)(F) and (G), concerning the
 2 definition of "exempt child welfare agency" under the Child Welfare Agency
 3 Licensing Act, are amended to read as follows:

4 (F) Human development centers regulated by the Board of
 5 Developmental Disabilities Services pursuant to the Location Act for
 6 Community Homes for ~~Developmentally Disabled Persons~~ Individuals with
 7 Intellectual and Developmental Disabilities, § 20-48-601 et seq.;

8 (G) Any facility licensed as a family home pursuant to the
 9 Location Act for Community Homes for ~~Developmentally Disabled Persons~~
 10 Individuals with Intellectual and Developmental Disabilities, § 20-48-601 et
 11 seq.;

12
 13 SECTION 6. Arkansas Code § 9-28-402(12)(M), concerning the definition
 14 of "exempt child welfare agency" under the Child Welfare Agency Licensing
 15 Act, is amended to read as follows:

16 (M) Any intellectual or other developmental disabilities
 17 services waiver provider licensed under § 20-48-208 or the Location Act for
 18 Community Homes for ~~Developmentally Disabled Persons~~ Individuals with
 19 Intellectual and Developmental Disabilities, § 20-48-601 et seq.;

20
 21 SECTION 7. Arkansas Code § 10-3-203(3)(A)(iii), concerning the subject
 22 matter jurisdiction of the House Committee on Public Health, Welfare, and
 23 Labor, is amended to read as follows:

24 (iii) House Committee on Public Health, Welfare, and
 25 Labor – matters pertaining to public health, mental health, ~~mental~~
 26 ~~retardation~~ intellectual and other developmental disabilities, public
 27 welfare, human relations and resources, environmental affairs, water and air
 28 pollution, labor and labor relations, similar legislation, and resolutions
 29 germane to the subject matter of the House Committee on Public Health,
 30 Welfare, and Labor;

31
 32 SECTION 8. Arkansas Code § 10-3-203(3)(B)(i), concerning the subject
 33 matter jurisdiction of the Senate Committee on Public Health, Welfare, and
 34 Labor, is amended to read as follows:

35 (i) Senate Committee on Public Health, Welfare, and
 36 Labor – matters pertaining to public health, mental health, ~~mental~~

1 ~~retardation~~ intellectual and other developmental disabilities, public
2 welfare, human relations and resources, the aged and problems of the aging,
3 environmental affairs, water and air pollution, labor and labor relations,
4 and similar legislation;

5
6 SECTION 9. Arkansas Code § 12-12-1513(a)(2), concerning status as a
7 registered sex offender, is amended to read as follows:

8 (2) Certain agencies are mandated to perform background checks
9 on persons who work with children, elderly persons, and ~~developmentally~~
10 ~~disabled persons~~ individuals with intellectual or other developmental
11 disabilities;

12
13 SECTION 10. Arkansas Code § 12-12-1603(7), concerning the definition
14 of "individuals with disabilities" within the Criminal History for Volunteers
15 Act, is amended to read as follows:

16 (7) "Individuals with disabilities" means ~~mentally ill or~~
17 ~~developmentally disabled~~ individuals with mental illness or intellectual or
18 other developmental disabilities or with physical or mental impairments that
19 substantially limit one (1) or more of the major life activities of the
20 individual;

21
22 SECTION 11. Arkansas Code § 17-82-701(5), concerning the definition of
23 "public settings" in the dental hygienist collaborative care program, is
24 amended to read as follows:

- 25 (5) "Public settings" means:
- 26 (A) Adult long-term care facilities;
 - 27 (B) Charitable health clinics that provide free or
28 reduced-fee services to low-income patients;
 - 29 (C) County incarceration facilities;
 - 30 (D) Facilities that primarily serve ~~developmentally~~
31 ~~disabled persons~~ individuals with intellectual or other developmental
32 disabilities;
 - 33 (E) Head Start programs;
 - 34 (F) Homes of homebound patients who qualify for in-home
35 medical assistance;
 - 36 (G) Hospital long-term care units;

- 1 (H) Local health units;
- 2 (I) Schools;
- 3 (J) Community health centers; and
- 4 (K) State correctional institutions; and

5
 6 SECTION 12. Arkansas Code § 20-8-109(d), concerning the approval of
 7 certain new projects by the Health Services Permit Agency, is amended to read
 8 as follows:

9 (d)(1) The Health Services Permit Agency shall process all
 10 applications or certificates of need for intermediate care facilities for ~~the~~
 11 individuals with intellectual or other developmental disabilities with
 12 fifteen (15) or fewer beds ~~which that~~ were pending on April 4, 1987, and
 13 shall for a period of thirty (30) days after April 4, 1987, accept additional
 14 applications for such facilities.

15 (2) The applications shall be processed utilizing the criteria
 16 and procedures in existence before April 4, 1987, and in addition the Health
 17 Services Permit Agency shall consider as a primary factor the experience of
 18 each applicant in serving ~~the developmentally disabled population~~ individuals
 19 with intellectual or other developmental disabilities.

20
 21 SECTION 13. Arkansas Code § 20-10-802(12), concerning the exceptions
 22 from licensing requirements for home healthcare services, is amended to read
 23 as follows:

24 (12) Persons providing services to one (1) or more
 25 ~~developmentally disabled persons~~ individuals with intellectual or other
 26 developmental disabilities, as defined in § 20-48-101, under a license or
 27 certificate from the Division of Developmental Disabilities Services of the
 28 Department of Human Services.

29
 30 SECTION 14. Arkansas Code § 20-15-302(c)(1), concerning the testing of
 31 newborns relating to phenylketonuria, hypothyroidism, and sickle-cell anemia,
 32 is amended to read as follows:

33 (c)(1) The department shall establish and maintain a program of
 34 reviewing and following up on positive cases so that measures may be taken to
 35 prevent intellectual and other developmental disability or other permanent
 36 disabilities.

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SECTION 15. Arkansas Code § 20-46-502(1), concerning the definition of "adults with long-term severe mental illness" as to intensive residential treatment, is amended to read as follows:

(1)(A) "Adults with long-term severe mental illness" means a person, eighteen (18) years of age or over, who meets criteria for service eligibility as defined by the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services.

(B) Individuals whose sole disability results from alcoholism, drug abuse, or intellectual or other developmental disability are excluded from this definition; and

SECTION 16. Arkansas Code § 20-47-202(12), concerning the definition of "mental illness" related to commitment and treatment of persons with mental illness, is amended to read as follows:

(12)(A) "Mental illness" means a substantial impairment of emotional processes, the ability to exercise conscious control of one's actions, or the ability to perceive reality or to reason, when the impairment is manifested by instances of extremely abnormal behavior or extremely faulty perceptions.

(B) Mental illness does not include impairment solely caused by:

- (i) Epilepsy;
- (ii) ~~Developmental~~ Intellectual or other developmental disability;
- (iii) Continuous or noncontinuous periods of intoxication caused by substances such as alcohol or drugs; or
- (iv) Dependence upon or addiction to any substance such as alcohol or drugs;

SECTION 17. Arkansas Code § 20-47-406(a) and (b), concerning Department of Human Services agreements for medical care of indigent mentally ill or tubercular, are amended to read as follows:

(a) The Arkansas State Hospital and other state institutions are authorized to enter into agreements with the Department of Human Services to establish and maintain a medical care program for the indigent mentally ill,

1 ~~mentally retarded~~ individuals with intellectual and developmental
 2 disabilities, and tubercular at the Arkansas State Hospital and any other
 3 state institution and to transfer funds to the Department of Human Services
 4 Fund pursuant to the agreement.

5 (b) The agreement made between the Arkansas State Hospital or other
 6 institution and the department shall be in compliance with federal law and
 7 shall meet qualifications necessary for federal funds to be paid for the care
 8 of indigent mentally ill, ~~mentally retarded~~ intellectually and
 9 developmentally disabled, and tubercular in the Arkansas State Hospital or
 10 other institution.

11
 12 SECTION 18. Arkansas Code § 20-48-101(2) and (3), concerning the
 13 definitions of "developmental disability" and "existing operations" for the
 14 treatment of persons with developmental disabilities, are amended to read as
 15 follows:

16 (2) "~~Developmental~~ Intellectual and developmental disability"
 17 means a disability of a person that:

18 (A)(i) Is attributable to ~~intellectual disability~~
 19 impairment of general intellectual functioning or adaptive behavior,
 20 including without limitation, cerebral palsy, spina bifida, Down syndrome,
 21 epilepsy, or autism;

22 (ii) Is attributable to any other condition of a
 23 person found to be closely related to an intellectual or other developmental
 24 disability as described in subdivision (2)(A)(i) of this section because the
 25 condition results in an impairment of general intellectual functioning or
 26 adaptive behavior similar to that of a person with intellectual or other
 27 developmental disability or requires treatment and services similar to that
 28 required for a person with intellectual or other developmental disability; or

29 (iii) Is attributable to dyslexia resulting from a
 30 disability described in subdivision (2)(A)(i) of this section or subdivision
 31 (2)(A)(ii) of this section;

32 (B) Originates before the person attains twenty-two (22)
 33 years of age;

34 (C) Has continued or can be expected to continue
 35 indefinitely; and

36 (D) Constitutes a substantial handicap to the person's

1 ability to function without appropriate support services, including, but not
 2 limited to, planned recreational activities, medical services such as
 3 physical therapy and speech therapy, and possibilities for sheltered
 4 employment or job training;

5 (3) "Existing operations" means the provision by a qualified
 6 nonprofit community provider of one (1) or more of the following services
 7 without regard to order:

8 (A) A developmental day treatment clinic services
 9 preschool program or adult development program;

10 (B) A licensed developmental disability services group
 11 home in operation and recognized by the division on or before July 1, 1995;

12 (C) An intermediate care facility for the program for
 13 individuals with intellectual or other developmental disabilities with
 14 fifteen (15) beds or less; or

15 (D) An apartment complex in operation and serving
 16 individuals with developmental disabilities on or before January 1, 2008;

17
 18 SECTION 19. Arkansas Code § 20-48-104 is amended to read as follows:
 19 20-48-104. Intermediate Care Facility for Persons with Intellectual
 20 and Developmental Disabilities program – Administration.

21 (a) The operation of the community-based Intermediate Care Facility
 22 for Persons with Intellectual and Developmental Disabilities program will be
 23 subject to the oversight of a five-member committee composed of three (3)
 24 members of the House of Representatives to be appointed by the Speaker of the
 25 House of Representatives and two (2) members of the Senate to be appointed by
 26 the President Pro Tempore of the Senate.

27 (b) The committee shall provide oversight for the operation of the
 28 small intermediate care facility for the ~~mentally-retarded~~ persons with
 29 intellectual and developmental disabilities program and make recommendations,
 30 within the appropriate federal regulations and guidelines, to the Division of
 31 Developmental Disabilities Services and the Office of Long-Term Care to
 32 establish and clarify the mission, goals, levels of services, and scope of
 33 the program and to provide consistency in state regulations, guidelines,
 34 standards, and policies.

35 (c) The committee shall also make recommendations for adequate funding
 36 to ensure the fiscal integrity of the program to allow it to be operated

1 pursuant to the state and federal regulations, guidelines, standards, and
 2 policies.

3
 4 SECTION 20. Arkansas Code §§ 20-48-201 and 20-48-202 are amended to
 5 read as follows:

6 20-48-201. Title.

7 This subchapter shall be known and may be cited as the “Arkansas
 8 Intellectual and Developmental Disabilities Act”.

9
 10 20-48-202. Definitions.

11 As used in this subchapter, unless the context otherwise requires:

12 ~~(1) “Board” means the Board of Developmental Disabilities~~
 13 ~~Services;~~

14 ~~(2)(1)~~ “Center” means a human development center;

15 ~~(3)(2)~~ “Community” means either region or locality;

16 ~~(4)(3)~~ “Coordinate” means to bring resources to bear in
 17 appropriate sequence and relationship to provide the proper services for
 18 individuals with intellectual and developmental disabilities. “Coordinate”
 19 implies a working relationship with, but not administrative authority over,
 20 public agencies providing intellectual and developmental disabilities
 21 ~~services to individuals with intellectual disabilities;~~

22 ~~(5) “Director” means the Director of the Department of Human~~
 23 ~~Services;~~

24 ~~(6) “Division” means the Division of Developmental Disabilities~~
 25 ~~Services of the Department of Human Services or the appropriate division as~~
 26 ~~determined by the Director of the Department of Human Services;~~

27 ~~(7)(4)~~ “Individual” means a person without regard to
 28 chronological age;

29 (5) "Intellectual and developmental disabilities services" means
 30 all services pertaining to and incidental to the prevention, detection,
 31 diagnosis, evaluation, treatment, care, custody, education, training,
 32 rehabilitation, or supervision of individuals with intellectual and
 33 developmental disabilities;

34 ~~(8)(6)~~ “Locality” means a geographical area defined by the
 35 division usually consisting of a municipality or county but not excluding
 36 other areas within easy commuting distance;

1 ~~(9) “Services for individuals with intellectual disabilities” or~~
2 ~~“services” means all services pertaining to and incidental to the prevention,~~
3 ~~detection, diagnosis, evaluation, treatment, care, custody, education,~~
4 ~~training, rehabilitation, or supervision of retarded individuals;~~

5 ~~(10)(7) “Private organizations” means organizations, persons,~~
6 ~~firms, individuals, corporations, or associations;~~

7 (8)(A) "Individual with intellectual and developmental
8 disabilities" means a person:

9 (i) With a mental deficit requiring him or her to
10 have special evaluation, treatment, care, education, training, supervision,
11 or control in his or her home or community, or in a state institution for
12 individuals with intellectual and developmental disabilities; or

13 (ii) Who has a functional disability who may not
14 exhibit an intellectual deficit on standard psychological tests but who,
15 because of other handicaps, functions as an individual with intellectual and
16 developmental disabilities.

17 (B) "Individual with intellectual and developmental
18 disabilities" does not include a person whose primary condition is caused by
19 mental illness, emotional disturbance, physical handicap, or sensory defect;

20 ~~(11)(10) “Public agencies” means all agencies, departments,~~
21 ~~boards, institutions, commissions, officers, officials, political~~
22 ~~subdivisions and agencies thereof, and school districts of this state;~~

23 ~~(12)(11) “Region” means a geographical area defined by the~~
24 ~~division, usually consisting of all or parts of two (2) or more counties,~~
25 ~~which is created to provide services for individuals with intellectual and~~
26 ~~developmental disabilities when the services cannot be provided feasibly or~~
27 ~~practically at the local level; and~~

28 ~~(13) “Individual with intellectual disabilities” means:~~

29 ~~(A) A person with a mental deficit requiring him or her to~~
30 ~~have special evaluation, treatment, care, education, training, supervision,~~
31 ~~or control in his or her home or community, or in a state institution for the~~
32 ~~individual with intellectual disabilities; or~~

33 ~~(B) A person who may not exhibit an intellectual deficit~~
34 ~~on standard psychological tests but who, because of other handicaps,~~
35 ~~functions as a person with intellectual disabilities. Not included is a~~
36 ~~person whose primary problem is mental illness, emotional disturbance,~~

1 ~~physical handicap, or sensory defect; and~~

2 ~~(14)~~(13) "Superintendent" means the chief administrative officer
3 assigned full-time to a center.

4
5 SECTION 21. Arkansas Code § 20-48-205(b), concerning, the powers and
6 duties of the Board of Developmental Disabilities Services, is amended to
7 read as follows:

8 (b) The board may make ~~such regulations~~ rules respecting the care,
9 custody, training, and discipline of individuals with intellectual and
10 developmental disabilities in the centers or receiving intellectual and
11 developmental disabilities services ~~for individuals with intellectual~~
12 ~~disabilities~~ and respecting the management of the centers and their affairs
13 as it may deem necessary or desirable to the proper performance of its powers
14 and purposes.

15
16 SECTION 22. Arkansas Code § 20-48-206(b), concerning the powers and
17 duties of the Board of Developmental Disabilities Services related to human
18 development centers and admissions, is amended to read as follows:

19 (b)(1) In this regard, admissions to the institutional facilities of
20 the centers shall be on the basis of a determination by the board that:

21 (A) The individual involved is ~~intellectually disabled~~ an
22 individual with intellectual and developmental disabilities;

23 (B) His or her parent or guardian has resided in the state
24 not less than three (3) years before the date of the filing of the petition
25 for his or her admission, or the individual involved is a dependent and a
26 public charge or ward of the state or a political subdivision thereof;

27 (C) The welfare of the individual involved requires the
28 special care, training, or education provided by institutional facilities of
29 the center; and

30 (D) The board has adequate funds and institutional
31 facilities available for the care, training, or education of the individual.

32 (2)(A) Also, the determination of whether an individual is
33 ~~intellectually disabled~~ an individual with intellectual and developmental
34 disabilities shall be made after there has been an investigation which shall
35 include an examination by an evaluation team appointed by the board.

36 (B) The team shall be composed of two (2) or more

1 physicians, psychiatrists, psychologists, or other persons found by the board
 2 to be professionally qualified on the basis of training and experience in
 3 ~~mental retardation~~ intellectual and developmental disabilities services to
 4 make a determination as to whether the individual involved is ~~intellectually~~
 5 ~~disabled~~ an individual with intellectual and developmental disabilities.

6
 7 SECTION 23. Arkansas Code § 20-48-207 is amended to read as follows:

8 20-48-207. Board of Developmental Disabilities Services – Contracts
 9 for provision of services.

10 (a) If and to the extent necessary to accomplish the intended purpose
 11 of this subchapter to make available the broadest and most effective
 12 provision of intellectual and developmental disabilities services to those in
 13 need of the services, the Board of Developmental Disabilities Services is
 14 authorized to contract for the providing of intellectual and developmental
 15 disabilities services by other public agencies or private organizations.

16 (b) In this regard, the board ~~is authorized to promulgate regulations~~
 17 may promulgate rules and fix standards necessary to properly ensure that such
 18 intellectual and developmental disabilities services are furnished in a
 19 proper and reasonable manner and on an economical basis.

20
 21 SECTION 24. Arkansas Code § 20-48-208(a) and (b), concerning a license
 22 for facilities and institutions issued by the Board of Developmental
 23 Services, are amended to read as follows:

24 (a)(1) The Board of Developmental Disabilities Services shall regulate
 25 the providing of intellectual and developmental disabilities services by
 26 private organizations and public agencies.

27 (2) The board shall promulgate ~~regulations~~ rules covering the
 28 issuance, suspension, and revocation of licenses and fixing the standards for
 29 construction, reconstruction, maintenance, and operation of institutions and
 30 facilities, or parts thereof, operated primarily for the providing of
 31 developmental disabilities services, unless the facilities or institutions in
 32 their entirety are licensed by the Office of Long-Term Care.

33 (b) ~~No~~ A public agency or private organization shall not operate any
 34 institution or facility for the provision of intellectual and developmental
 35 disabilities services unless it has a license in effect.

1 SECTION 25. Arkansas Code § 20-48-209 is amended to read as follows:
 2 20-48-209. Board of Developmental Disabilities Services – Planning and
 3 implementation.

4 (a)(1) The Board of Developmental Disabilities Services is designated
 5 as the single state agency for the purpose of full participation under any
 6 federal act requiring the designation of a single state agency concerning
 7 planning, formulation, and implementation of programs, construction and
 8 operation of facilities, financing of facilities and programs, or otherwise
 9 pertaining to the obtaining and rendition of intellectual and developmental
 10 disabilities services.

11 (2) However, this shall not be construed as depriving other
 12 public agencies of jurisdiction over or the right to plan for and control and
 13 operate programs that pertain to intellectual and developmental disabilities
 14 services but which fall within the primary jurisdiction of other public
 15 agencies such as programs administered by the Arkansas School for the Deaf,
 16 Arkansas School for the Blind, ~~State Board of Career Education~~ Career
 17 Education and Workforce Development Board, State Board of Education,
 18 Department of Health, and the Department of Human Services.

19 (b)(1) The Board of Developmental Disabilities Services ~~is authorized~~
 20 ~~to~~ may coordinate the planning and implementation of intellectual and
 21 developmental disabilities programs and institutional and community
 22 activities of all public agencies.

23 (2) However, this shall not be construed as depriving other
 24 public agencies of jurisdiction over or the right to plan for and control and
 25 operate programs that pertain to intellectual and developmental disabilities
 26 services but which fall within the primary jurisdiction of other public
 27 agencies such as programs administered by the Arkansas School for the Deaf,
 28 Arkansas School for the Blind, ~~State Board of Career Education~~ Career
 29 Education and Workforce Development Board, State Board of Education,
 30 Department of Health, and the Department of Human Services.

31 (c)(1) Effective planning and coordination is essential to the public
 32 interest.

33 (2) In order to achieve this to the fullest extent possible, the
 34 Board of Developmental Disabilities Services ~~is authorized to~~ may establish
 35 and promulgate ~~regulations~~ rules fixing standards for intellectual and
 36 developmental disabilities programs and activities and to evaluate

1 intellectual and developmental disabilities programs and activities of public
 2 agencies.

3
 4 SECTION 26. Arkansas Code § 20-48-210(b), concerning the Deputy
 5 Director of the Division of Developmental Disabilities Services of the
 6 Department of Human Services, is amended to read as follows:

7 (b) The deputy director shall be a person of proven administrative
 8 ability and professional qualifications, preferably holding a Ph.D. or
 9 equivalent, but including at least a master's degree in psychology,
 10 education, social service, or other field of study approved by the board and
 11 shall have at least five (5) years' experience in intellectual and
 12 developmental disabilities services.

13
 14 SECTION 27. Arkansas Code § 20-48-211 is amended to read as follows:
 15 20-48-211. Board of Developmental Disabilities Services – Community
 16 centers.

17 (a)(1) The Board of Developmental Disabilities Services ~~is authorized~~
 18 ~~to~~ may take the necessary action to establish and maintain, or to cause to be
 19 established and maintained, community centers, alone or together with public
 20 agencies or private organizations, at localities determined to be appropriate
 21 for the better providing of or for assistance in the providing of
 22 intellectual and developmental disabilities services for any region or
 23 locality in the state.

24 (2) Community centers may be organized on a formal or informal
 25 basis as shall be determined to best suit the circumstances at any particular
 26 region or locality, including without limitation organization under the
 27 provisions of the Arkansas Nonprofit Corporation Act, §§ 4-28-201 – 4-28-206
 28 and 4-28-209 – 4-28-224.

29 (b)(1) Within the limits of available funds, a program for furnishing
 30 intellectual and developmental disabilities services shall be developed for
 31 each community center which may include a state grants-in-aid program.

32 (2) In this regard, the board ~~is authorized to~~ may promulgate
 33 ~~regulations~~ rules covering the establishment and operation of community
 34 centers, the formulation and implementation of intellectual and developmental
 35 disabilities programs and activities for community centers, and the funding
 36 of the programs and activities.

1 (c) The board is prohibited from promulgating any rule ~~or regulation~~
 2 that would set the salary of any employee of a community-based program unless
 3 specifically required to do so by the United States Government.

4
 5 SECTION 28. Arkansas Code § 20-48-301 and 20-48-302 are amended to
 6 read as follows:

7 20-48-301. Purpose.

8 It is the purpose of this subchapter to permit the Board of
 9 Developmental Disabilities Services, a division of the Department of Human
 10 Services, to cooperate with public agencies or private nonprofit
 11 organizations of adjoining states to provide services for residents of
 12 Arkansas ~~who are intellectually disabled or developmentally disabled~~ with
 13 intellectual or other developmental disabilities.

14
 15 20-48-302. Authority to participate.

16 (a) Subject to the conditions and limitations contained in this
 17 subchapter, the Board of Developmental Disabilities Services may enter into
 18 agreements with public agencies, private nonprofit organizations, or
 19 combinations thereof from adjoining states for the purpose of performing its
 20 responsibility to the residents of Arkansas ~~who are intellectually disabled~~
 21 ~~or developmentally disabled~~ with intellectual or other developmental
 22 disabilities.

23 (b) The agreements may include financial participation, using any
 24 funds that are at its disposal, to the extent that similar services would be
 25 performed within the state.

26
 27 SECTION 29. Arkansas Code § 20-48-404 is amended to read as follows:

28 20-48-404. Eligibility for admission.

29 (a) An individual may be deemed eligible for admission to a human
 30 development center if+

31 ~~(1) Due~~ due to intellectual or other developmental disability,
 32 the person is incapable of managing his or her affairs and the person's
 33 welfare requires the special care, training, and treatment provided at a
 34 human development center.

35 ~~(2)(b)~~ The examining physicians provided for in § 20-48-406
 36 shall use standard mental and psychological tests and physical examinations

1 in determining that the individual ~~is developmentally disabled~~ has
 2 intellectual or other developmental disabilities and is in need of special
 3 training ~~which~~ that is provided for in this subchapter.

4
 5 SECTION 30. Arkansas Code § 20-48-413 is amended to read as follows:

6 20-48-413. Emotionally disturbed individuals with intellectual and
 7 developmental disabilities.

8 (a) The Board of Developmental Disabilities Services ~~is authorized to~~
 9 may establish and operate an appropriate facility at such location in the
 10 state as it shall determine for the care and treatment of emotionally
 11 disturbed ~~intellectually disabled~~ individuals with intellectual or other
 12 developmental disabilities, and persons with disorganized behavior, including
 13 hyperkinetic, hyperactive, or aggressive behaviors who, because of their
 14 problem, function as ~~intellectually disabled~~ individuals with intellectual or
 15 other developmental disabilities.

16 (b) The board ~~is authorized to make such rules and regulations~~ may
 17 make rules regarding eligibility for admission to the facility, care and
 18 treatment of the individuals, discharge from and return to the facility,
 19 charges for the maintenance, care, and training of individuals admitted to
 20 the facility, and such other matters as the board shall deem necessary to
 21 carry out the most effective program for the care and treatment of
 22 emotionally disturbed ~~intellectually disabled~~ individuals with intellectual
 23 or other developmental disabilities of this state.

24
 25 SECTION 31. Arkansas Code § 20-48-416(a) and (b), concerning the
 26 designation to carry out federal acts, are amended to read as follows:

27 (a) The Board of Developmental Disabilities Services is designated as
 28 the single state agency for carrying out the purposes of any act of Congress
 29 pertaining to individuals with intellectual or other developmental
 30 disabilities.

31 (b) The board ~~is authorized to~~ may take all action of every nature
 32 whatever necessary or desirable in complying with the requirements of any
 33 federal act and accomplishing the purposes thereof, including, without
 34 limitation:

35 (1) The receiving, handling, and disbursing of grants and funds
 36 appropriated by any federal act;

1 (2) The making of provisions to assure full consideration of all
 2 aspects of services essential to planning for comprehensive state and
 3 community action to combat intellectual or other developmental disabilities,
 4 including services in the fields of education, employment, rehabilitation,
 5 welfare, health, and the law, and services provided through community
 6 programs for and institutions for the individuals with intellectual or other
 7 developmental disabilities;

8 (3) The preparing and submitting of plans for expenditure of
 9 such grants and funds and providing the assurance required by any federal act
 10 as to carrying out the purposes of any federal act;

11 (4) The preparing and submitting of reports of the activities of
 12 the center in carrying out the purposes of any federal act in such form and
 13 containing such information as may be required by any federal act and keeping
 14 such records and affording access thereto necessary to assure correctness and
 15 verification of such reports as may be required by any federal act;

16 (5) The providing for such fiscal control and fund accounting
 17 procedures as may be necessary to assure proper disbursement of and
 18 accounting for grants and funds paid to the center in accordance with the
 19 requirements of any federal act; and

20 (6) The doing of all things and taking of all action to carry
 21 out any plans for expenditures of the grants and funds in accordance with and
 22 for the accomplishment of the purposes of any federal act.

23
 24 SECTION 32. Arkansas Code §§ 20-48-601 and 20-48-602 are amended to
 25 read as follows:

26 20-48-601. Title.

27 This subchapter shall be known as the “Location Act for Community Homes
 28 for ~~Developmentally Disabled Persons~~ Individuals with Intellectual and
 29 Developmental Disabilities”.

30
 31 20-48-602. Purpose.

32 (a) The General Assembly declares that it is the goal of this
 33 subchapter to improve the quality of life of all ~~developmentally disabled~~
 34 ~~persons~~ individuals with intellectual or other developmental disabilities and
 35 to integrate ~~developmentally disabled persons~~ individuals with intellectual
 36 or other developmental disabilities into the mainstream of society by

1 ensuring them the availability of community residential opportunities in the
 2 residential areas of this state.

3 (b) In order to implement this goal, this subchapter should be
 4 liberally construed toward that end.

5
 6 SECTION 33. Arkansas Code § 20-48-603(1) and (2), concerning the
 7 definition of "developmental disability" under the Location Act For Community
 8 Homes for Developmentally Disabled Persons, are amended to read as follows:

9 (1)(A) "~~Developmental~~ Intellectual and developmental disability"
 10 means a disability of a person that:

11 (i) Is attributable to ~~intellectual disability,~~
 12 impairment of general intellectual functioning or adaptive behavior,
 13 including without limitation cerebral palsy, spina bifida, Down syndrome,
 14 epilepsy, or autism;

15 (ii) Is attributable to any other condition of a
 16 person found to be closely related to an intellectual or other developmental
 17 disability as described in subdivision (1)(A)(i) of this section because it
 18 results in impairment of general intellectual functioning or adaptive
 19 behavior similar to that of individuals with intellectual or other
 20 developmental disabilities or requires treatment and services similar to
 21 those required for the persons;

22 (iii) Is attributable to dyslexia resulting from
 23 intellectual disability, cerebral palsy, epilepsy, or autism; and

24 (iv) Has continued or can be expected to continue
 25 indefinitely.

26 (B) "~~Developmental~~ Intellectual and developmental
 27 disability" does not refer to other forms of mental disease or defect not
 28 defined in this section;

29 (2) "~~Developmentally disabled person~~" "Individual with
 30 intellectual and developmental disabilities" means a person with ~~a~~ an
 31 intellectual and developmental disability as defined in this section;
 32

33 SECTION 34. Arkansas Code § 20-48-605(a), concerning the issuance and
 34 renewal of licenses for the Location Act for Community Homes for
 35 Developmentally Disabled Persons, is amended to read as follows:

36 (a) For the purposes of safeguarding the health and safety of

1 ~~developmentally disabled persons~~ individuals with intellectual or other
 2 developmental disabilities and avoiding over-concentration of Family Homes I
 3 and Family Homes II, either alone or in conjunction with similar community-
 4 based residences, the Division of Developmental Disabilities Services shall
 5 inspect and license the operation of family homes and may renew or revoke
 6 their licenses.

7
 8 SECTION 35. Arkansas Code § 20-48-611(a), concerning the voidness of
 9 restrictions by private property agreement for the Location Act for Community
 10 Homes for Developmentally Disabled Persons, is amended to read as follows:

11 (a) Any restriction, reservation, condition, exception, or covenant in
 12 any subdivision plan, deed, or other instrument of or pertaining to the
 13 transfer, sale, lease, or use of property ~~which~~ that would permit residential
 14 use of property but prohibit the use of the property as a Family Home I or
 15 Family Home II for ~~developmentally disabled persons~~ individuals with
 16 intellectual or other developmental disabilities, to the extent of the
 17 prohibition, shall be void as against the public policy of this state and
 18 shall be given no legal or equitable force or effect.

19
 20 SECTION 36. Arkansas Code § 20-48-705 is amended to read as follows:

21 20-48-705. Membership of nonprofit organizations.
 22 A nonprofit organization licensed or certified by the Division of
 23 Developmental Disabilities Services of the Department of Human Services to
 24 serve adults shall include an individual with intellectual or other
 25 developmental disabilities as an ex officio member of the nonprofit
 26 organization's board of directors or other governing body.

27
 28 SECTION 37. Arkansas Code § 20-49-101(3), concerning the definition of
 29 "incompetent" regarding sterilization of mental incompetents, is amended to
 30 read as follows:

31 (3) "Incompetent person" shall mean a person as to whom it is
 32 proved:

33 (A) He or she is incapable of caring for himself or
 34 herself by reason of intellectual and developmental disability, mental
 35 illness, imbecility, idiocy, or other mental incapacity;

36 (B) He or she manifests sexual inclinations which make it

1 probable that he or she will procreate children unless he or she is rendered
 2 incapable of procreation; and

3 (C) There is no probability that his or her condition will
 4 improve so that he or she will become capable of caring for himself or
 5 herself.

6
 7 SECTION 38. Arkansas Code § 21-15-101(7), concerning the definition of
 8 "developmentally disabled person" as to criminal background checks for public
 9 officers and employees, is amended to read as follows:

10 (7) ~~"Developmentally disabled person"~~ "Individual with an
 11 intellectual and developmental disability" means a person with a disability
 12 that is attributable to:

13 (A) ~~Mental retardation,~~ Impairment of general intellectual
 14 functioning or adaptive behavior, including without limitation cerebral
 15 palsy, spina bifida, Down syndrome, epilepsy, or autism;

16 (B) Dyslexia resulting from a disability associated with
 17 ~~mental retardation~~ intellectual and developmental disabilities, cerebral
 18 palsy, epilepsy, or autism; or

19 (C) Any other condition found to be closely related to
 20 ~~mental retardation~~ intellectual and developmental disabilities as described
 21 in subdivision (7)(A) of this section because it results in an impairment of
 22 general intellectual functioning or adaptive behavior similar to those of
 23 ~~mentally retarded~~ persons with intellectual and developmental disabilities or
 24 requires treatment and services similar to those required for ~~mentally~~
 25 ~~retarded~~ persons with intellectual and developmental disabilities;

26
 27 SECTION 39. Arkansas Code § 23-75-111(b)(1), concerning subscription
 28 contracts relating to hospital and medical service corporations, is amended
 29 to read as follows:

30 (b)(1) In any hospital service corporation contract, any medical
 31 service corporation contract, or any hospital and medical service corporation
 32 contract, whether group or individual, that contains a provision whereby
 33 coverage of a dependent in a family group terminates at a specified age,
 34 there shall also be a provision that coverage of an unmarried dependent who
 35 is incapable of sustaining employment by reason of ~~mental retardation~~
 36 intellectual and developmental disability or physical disability, who became

1 so incapacitated prior to the attainment of nineteen (19) years of age and
 2 who is chiefly dependent upon the contract holder or certificate holder for
 3 support and maintenance, shall not terminate, but coverage shall continue so
 4 long as the contract or certificate remains in force and so long as the
 5 dependent remains in such a condition.

6
 7 SECTION 40. Arkansas Code § 23-85-131(b)(1), concerning age limits and
 8 exceptions to age limits relating to accident and health insurance, is
 9 amended to read as follows:

10 (b)(1) In any accident and health insurance contract that contains a
 11 provision whereby coverage of a dependent in a family group terminates at a
 12 specified age, there shall also be a provision that coverage of an unmarried
 13 dependent who is incapable of sustaining employment by reason of ~~mental~~
 14 ~~retardation~~ intellectual and developmental disability or physical disability,
 15 who became so incapacitated prior to the attainment of nineteen (19) years of
 16 age, and who is chiefly dependent upon the policyholder for support and
 17 maintenance shall not terminate, but coverage shall continue so long as the
 18 contract remains in force and so long as the dependent remains in such
 19 condition.

20
 21 SECTION 41. Arkansas Code § 23-86-102(c)(8)(A), concerning blanket
 22 accident and health insurance required provisions, is amended to read as
 23 follows:

24 (8)(A) In any contract that contains a provision whereby
 25 coverage of a dependent in a family group terminates at a specified age,
 26 there shall also be a provision that coverage of an unmarried dependent who
 27 is incapable of sustaining employment by reason of ~~mental retardation~~
 28 intellectual and developmental disability or physical disability, who became
 29 so incapacitated prior to the attainment of nineteen (19) years of age, and
 30 who is chiefly dependent upon the employee for support and maintenance shall
 31 not terminate, but coverage shall continue so long as the contract remains in
 32 force and so long as the dependent remains in such condition.

33
 34 SECTION 42. Arkansas Code § 23-86-108(4)(A), concerning group accident
 35 and health insurance required provisions, is amended to read as follows:

36 (4)(A) In any contract that contains a provision whereby

1 coverage of a dependent in a family group terminates at a specified age,
2 there shall also be a provision that coverage of an unmarried dependent who
3 is incapable of sustaining employment by reason of ~~mental retardation~~
4 intellectual and developmental disability or physical disability, who became
5 so incapacitated prior to the attainment of nineteen (19) years of age and
6 who is chiefly dependent upon the employee for support and maintenance, shall
7 not terminate, but coverage shall continue so long as the coverage of the
8 employee or member remains in force and so long as the dependent remains in
9 such condition.

10
11 SECTION 43. Arkansas Code § 25-10-113(b), concerning the disposition
12 of direct services funds by the Department of Human Services, is amended to
13 read as follows:

14 (b) It is the specific intent of this act to prevent the diversion of
15 community grant-in-aid line funds for any purpose that would not provide
16 direct services to ~~developmentally disabled~~ clients with intellectual or
17 other developmental disabilities in community programs.