

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: S2/5/19

A Bill

SENATE BILL 152

5 By: Senators Irvin, Bledsoe, B. Davis, J. English
6 By: Representatives C. Fite, Barker, Bentley, Brown, Capp, Cavanaugh, Crawford, Dalby, Della Rosa,
7 M. Gray, Lundstrum, J. Mayberry, Petty, Rushing, Speaks, Vaught
8

For An Act To Be Entitled

9
10 AN ACT TO IMPROVE OUTCOMES FOR YOUTH AND FAMILIES
11 THROUGH THE TRANSFORMATION OF THE JUVENILE JUSTICE
12 SYSTEM; AND TO REFORM THE JUVENILE JUSTICE SYSTEM TO
13 UTILIZE VALIDATED RISK ASSESSMENT TOOLS, CREATE A
14 PLAN FOR DIVERSION OPTIONS TO MAXIMIZE THE BENEFITS
15 FOR JUVENILE OFFENDERS, AND DEVELOP A PLAN FOR THE
16 REINVESTMENT OF FUNDS INTO COMMUNITY-BASED SERVICES.
17

Subtitle

18
19 AN ACT RESTORING ARKANSAS FAMILIES.
20
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. DO NOT CODIFY. This act shall be known and may be cited as
26 the "Restoring Arkansas Families Act".
27

28 SECTION 2. DO NOT CODIFY. Legislative findings and intent.

29 (a) The General Assembly finds:

30 (1) The Youth Justice Reform Board was established by Acts 2015,
31 No. 1010, bringing together stakeholders from across the state to develop a
32 series of recommendations for youth justice reform in Arkansas;

33 (2) Stakeholder groups represented on the board include:

34 (A) Families and youth involved in the juvenile system;

35 (B) The Department of Education;

36 (C) The Department of Workforce Services;



- 1 (D) The Department of Human Services;
2 (E) Youth services providers;
3 (F) Juvenile judges;
4 (G) The Administrative Office of the Courts;
5 (H) Prosecuting attorneys;
6 (I) Public defenders;
7 (J) Youth advocates; and
8 (K) Experts in adolescent development; and

9 (3) In 2017, the board worked with the Arkansas Supreme Court
10 Commission on Children, Youth, and Families to identify concerns and
11 priorities for legislative action.

12 (b) The purpose of this act is to:

13 (1) Maintain public safety and improve outcomes for Arkansas
14 youth and families involved in the juvenile justice system through validated
15 risk assessments;

16 (2) Reduce the number of secure out-of-home placements;

17 (3) Redirect funding from secure residential facilities to
18 evidence-based community services;

19 (4) Equitably allocate services in and across each judicial
20 district;

21 (5) Enhance treatment for youth committed to the Division of
22 Youth Services; and

23 (6) Serve youth and families through evidence-based programs
24 selected through a collaboration between the Department of Human Services,
25 the judiciary, and community-based providers.

26
27 SECTION 3. Arkansas Code § 9-27-323(e), concerning diversion agreements
28 in juvenile delinquency cases, is amended to read as follows:

29 (e) Diversion agreements shall be:

30 (1) Implemented by all juvenile courts based on validated
31 assessment tools; and

32 (2) ~~limited~~ Used to ~~providing~~ provide for:

33 ~~(1)~~(A) Nonjudicial probation under the supervision of the
34 intake officer or probation officer for a period during which the juvenile
35 may be required to comply with specified conditions concerning his or her
36 conduct and activities;

1 ~~(2)(B)~~ Participation in a court-approved program of
 2 education, counseling, or treatment;
 3 ~~(3)(C)~~ Participation in a court-approved teen court;
 4 ~~(4)(D)~~ Participation in a juvenile drug court program; ~~and~~
 5 ~~(5)(E)~~ Enrollment in the Regional Educational Career
 6 Alternative School System for Adjudicated Youth; and
 7 (F)(i) Payment of restitution to the victim.
 8 (ii) Payments of restitution under subdivision
 9 (e)(2)(F)(i) of this section shall be paid under § 16-13-326.

10
 11 SECTION 4. Arkansas Code § 9-27-330(a)(1)(B), concerning dispositions
 12 in juvenile delinquency cases, is amended to read as follows:

13 (B)(i) Commit the juvenile to the Division of Youth Services ~~of the~~
 14 ~~Department of Human Services~~ using the validated risk assessment system for
 15 Arkansas juvenile offenders selected by the Juvenile Judges Committee of the
 16 Arkansas Judicial Council with the division and distributed and administered
 17 by the Administrative Office of the Courts.

18 (ii)(a) The validated risk assessment system
 19 selected by the Juvenile Judges Committee of the Arkansas Judicial Council
 20 with the division shall be:

21 (1) The only validated risk assessment
 22 used by courts for commitment;

23 (2) Used throughout the state; and

24 (3) Applied to all commitment decisions
 25 for all juvenile offenders.

26 (b) The validated risk assessment may be
 27 ~~modified~~ changed to another validated risk assessment system by the Juvenile
 28 Judges Committee of the Arkansas Judicial Council with the division.

29 (iii)(a) In an order of commitment, the court may
 30 recommend that a juvenile be placed in a treatment program or community-based
 31 program instead of a youth services center and shall make specific findings
 32 in support of such a placement in the order.

33 (b) The court shall also specify in its
 34 recommendation whether it is requesting a division aftercare plan upon the
 35 juvenile's release from the division.

36 (c) A court may not commit a juvenile to the

1 division if the juvenile is adjudicated delinquent of only a misdemeanor
2 offense unless the:

3 (1) Juvenile is determined to be
4 moderate risk or high risk by the validated risk assessment; and

5 (2) Court makes specific findings as to
6 the factors considered for the disposition to be in the juvenile's best
7 interest.

8 (d) A court may not commit a juvenile to the
9 division if the juvenile is adjudicated delinquent of only a misdemeanor
10 offense and the juvenile is determined to be low risk by the validated risk
11 assessment.

12 (iv) A circuit court committing a juvenile to the
13 division under subdivision (a)(1)(B)(iii) of this section shall make written
14 findings and consider the following factors in making its determination to
15 commit the juvenile to the division:

16 (a) The previous history of the juvenile,
17 including without limitation whether:

18 (1) The juvenile has been adjudicated
19 delinquent and, if so, whether the offense was against a person or property;
20 and

21 (2) Any other previous history of
22 antisocial behavior or patterns of physical violence exist;

23 (b) Whether the circuit court has previously
24 offered less restrictive programs or services to the juvenile and whether
25 there are less restrictive programs or services available to the court that
26 are likely to rehabilitate the juvenile before the expiration of the court's
27 jurisdiction;

28 (c) Written reports and other materials
29 relating to the juvenile's mental, physical, educational, and social history;
30 and

31 (d) Any other factors deemed relevant by the
32 circuit court.

33 ~~(iv)~~(v) Upon receipt of an order of commitment with
34 recommendations for placement, the division shall consider the
35 recommendations of the committing court in placing a juvenile in a youth
36 services facility or a community-based program.

1 ~~(v)~~(vi) Upon receipt of an order of commitment, the
2 division or its contracted provider or designee shall prepare a written
3 treatment plan that:

4 (a) States the treatment plan for the
5 juvenile, including the types of programs and services that will be provided
6 to the juvenile;

7 (b) States the anticipated length of the
8 juvenile's commitment;

9 (c)(1) States recommendations as to the most
10 appropriate post-commitment placement for the juvenile.

11 (2) If the juvenile cannot return to the
12 custody of his or her parent, guardian, or custodian because of child
13 maltreatment, which includes the parent, guardian, or custodian refusing to
14 take responsibility for the juvenile, the division shall immediately contact
15 the Office of Chief Counsel of the Department of Human Services.

16 (3) The Office of Chief Counsel of the
17 Department of Human Services shall petition the committing court to determine
18 the issue of custody of the juvenile;

19 (d) States any postcommitment community-based
20 services that will be offered to the juvenile and to his or her family by the
21 division or the community-based provider;

22 (e)(1) Outlines an aftercare plan, if
23 recommended, including specific terms and conditions required of the juvenile
24 and the community-based provider.

25 (2) If the juvenile progresses in
26 treatment and an aftercare plan is no longer recommended or the terms of the
27 aftercare plan need to be amended as a result of treatment changes, any
28 change in the terms of the aftercare plan and conditions shall be provided in
29 writing and shall be explained to the juvenile.

30 (3) The terms and conditions shall be
31 provided also to the prosecuting attorney, the juvenile's attorney, and to
32 the juvenile's legal parent, guardian, or custodian by the division or its
33 designee before the juvenile's release from the division.

34 (4) All aftercare terms shall be
35 provided to the committing court; and

36 (f)(1) The treatment plan shall be filed with

1 the committing court no later than thirty (30) days from the date of the
2 commitment order or before the juvenile's release, whichever is sooner.

3 (2) A copy of the written treatment plan
4 shall be provided and shall be explained to the juvenile.

5 (3) A copy shall be provided to the
6 prosecutor, the juvenile's attorney, and to the juvenile's legal parent,
7 guardian, or custodian and shall be filed in the court files of any circuit
8 court where a dependency-neglect or family in need of services case
9 concerning that juvenile is pending.

10
11 SECTION 5. Arkansas Code § 9-28-201 is amended to read as follows:
12 9-28-201. Legislative intent and purpose.

13 (a) The General Assembly recognizes that the state has a
14 responsibility to provide its youth with appropriate services and programs to
15 help decrease the number of juvenile offenders in the state and to create a
16 better future for the state's youth and that reforms in the juvenile justice
17 system require oversight by an organization with special expertise in the
18 problems of juvenile offenders. Therefore, the General Assembly declares that
19 this subchapter is necessary to create a single entity within the Department
20 of Human Services with primary responsibility for coordinating, sponsoring,
21 and providing services to Arkansas's youth and to create a structure within
22 state government that will be responsive to the needs of the state's youth.

23 (b) The purposes of this subchapter include without limitation to:

24 (1) Maintain public safety and improve outcomes for Arkansas
25 youth and families involved in the juvenile justice system through validated
26 risk assessments;

27 (2) Reduce the number of secure out-of-home placements;

28 (3) Redirect funding from secure residential facilities to
29 evidence-based community services; and

30 (4) Enhance treatment for youth committed to the Division of
31 Youth Services.

32
33 SECTION 6. Arkansas Code § 9-28-203(a), concerning the powers and
34 duties of the Division of Youth Services, is amended to read as follows:

35 (a) The Division of Youth Services ~~of the Department of Human Services~~
36 shall perform the following functions and have the authority and

1 responsibility to:

2 (1) Coordinate communication among the various components of the
3 juvenile justice system;

4 (2) Oversee reform of the state's juvenile justice system,
5 review the quality and consistency of reforms and reform proposals, and
6 monitor youth and family outcomes related to reforms;

7 (3) Provide services to delinquent and families-in-need-of-
8 services youths;

9 (4) Conduct research into the causes, nature, and treatment of
10 juvenile delinquency and related problems;

11 (5) Develop programs for early intervention and prevention of
12 juvenile delinquency;

13 (6) Maintain information files on juvenile delinquents in the
14 state;

15 (7) Develop effective community-based alternatives to
16 confinement, incarceration, and commitment of youths;

17 (8) Actively pursue the maximization of federal funding for
18 juvenile delinquency and related programs;

19 (9) Evaluate the effectiveness and efficiency of the programs
20 and services offered by the division and recommend changes to the Governor;

21 (10) Provide a system of education in residential facilities
22 operated by the division that conform to the guidelines established by the
23 Department of Education and as set forth in § 9-28-205; ~~and~~

24 (11) Develop a reinvestment plan to redirect savings realized
25 from reductions in the number of secure out-of-home placements under § 9-28-
26 1203;

27 (12) Develop a collaborative information-sharing system among
28 the Department of Human Services, the Administrative Office of the Courts,
29 and other stakeholders; and

30 ~~(11)~~(13) Do and perform all other actions and exercise all other
31 authority not inconsistent with the provisions of this subchapter as
32 necessary to carry out the purposes and intent of this subchapter.

33

34 SECTION 7. Arkansas Code § 9-28-203(b)(7), concerning the observation
35 and assessment services provided by the Division of Youth Services, is
36 amended to read as follows:

1 (7)(A) Observation and assessment services shall consist of, but
2 not be limited to, those activities necessary to ensure appropriate
3 recommendations for intervention, services, and placement of low-risk and
4 medium-risk juveniles.

5 (B) Observation and assessment services may be acquired by
6 agreements with community providers or other agencies or individuals deemed
7 to have the appropriate level of expertise to perform observation and
8 assessment or diagnosis and evaluation.

9 (C)(i) The division shall use validated risk assessments
10 for all juveniles committed to the division.

11 (ii) The division shall provide individualized
12 treatment and placement decisions, with measureable goals and regular
13 reassessments, based on the results of an initial assessment and the risk
14 level assigned to the juvenile by the validated risk assessment used in the
15 court's commitment decision under § 9-27-330(a)(1)(B);

16
17 SECTION 8. Arkansas Code § 9-28-203(b)(8), concerning the observation
18 and assessment services provided by the Division of Youth Services, is
19 amended to read as follows:

20 (8)(A) Residential observation and assessment services shall
21 consist of, but not be limited to, those activities necessary to ensure
22 appropriate recommendations for intervention, services, and placement of
23 high-risk juveniles.

24 (B) Residential observation and assessment services
25 may be performed by or at appropriate state-operated facilities or by
26 agreement with appropriate agencies or individuals deemed to have the
27 appropriate level of expertise to perform residential observation and
28 assessment or diagnosis and evaluation.

29 (C)(i) The division shall use validated risk assessments
30 for all juveniles committed to the division.

31 (ii) The division shall provide individualized
32 treatment and placement decisions, with measurable goals and regular
33 reassessments, based on the results of an initial assessment and the risk
34 level assigned to the juvenile by the validated risk assessment used in the
35 court's commitment decision under § 9-27-330(a)(1)(B);

36

1 SECTION 9. Arkansas Code § 9-28-203(b)(9), concerning the observation
2 and assessment services provided by the Division of Youth Services, is
3 amended to read as follows:

4 (9)(A)(i) Community-based alternative basic services shall
5 consist of, but not be limited to, prevention, intervention, casework,
6 treatment, counseling, observation and assessment, case management, and
7 residential services.

8 (ii) Community-based alternative basic services
9 shall be provided through a treatment model that is evidence-based,
10 developmentally appropriate, family-centered, strength-based, and trauma-
11 informed.

12 ~~(ii)(iii)~~ Primary goals for community-based
13 alternative basic services shall be the prevention of youths from entering
14 the juvenile justice system and the provision of professional, community-
15 based, least-cost services to youths.

16 (B) These services may be acquired by agreements with
17 comprehensive community-based providers capable of delivering the required
18 continuum of services; and

19
20 SECTION 10. Arkansas Code § 9-28-203(b), concerning the powers and
21 duties of the Division of Youth Services, is amended to add an additional
22 subdivision to read as follows:

23 (11) The division shall provide monitoring and technical
24 assistance to review the quality and consistency of reforms to the juvenile
25 justice system.

26
27 SECTION 11. Arkansas Code § 9-28-208(b)(1)(B), concerning orders of
28 detention and commitment, is amended to read as follows:

29 (B) A copy of the validated risk assessment instrument;
30 and

31
32 SECTION 12. Arkansas Code § 9-28-302(g)(1), concerning security
33 inspections, is amended to read as follows:

34 (g)(1)(A) The Department of Human Services or the division shall
35 develop an internal audit and review to evaluate and monitor all facilities
36 of the division.

1 (B) The internal audit and review shall include without
2 limitation monitoring of all facilities for security concerns.

3
4 SECTION 13. Arkansas Code § 9-28-1202 is amended to read as follows:

5 9-28-1202. Powers and duties – Definitions.

6 (a) As used in this section and § 9-28-1203:

7 (1) “Proven effective community- based alternatives” means
8 interventions, supports, programs, and practices that are recognized as best
9 practices based on rigorous evaluation and research, or are based on a clear
10 and well-articulated theory or conceptual framework for delinquency
11 prevention. These include, without limitation, community-based services that
12 are currently provided or have been provided and have been demonstrated to be
13 effective in reducing the number of secure confinement out-of-home placements
14 and institutional placement of youthful offenders; and

15 (2) “Secure ~~confinement~~ out-of-home placement” means ~~confinement~~
16 placement in a public or private residential facility that includes
17 construction fixtures designed to physically restrict the movements and
18 activities of individuals held in lawful custody and is used for the
19 placement and disposition of a juvenile adjudicated to be delinquent; ~~and~~

20 ~~(3) “Serious risk to public safety” means a high risk that a~~
21 ~~youth will reoffend without intervention as measured by a validated risk~~
22 ~~assessment.~~

23 (b) The Youth Justice Reform Board shall:

24 (1) Assist the Division of Youth Services ~~of the Department of~~
25 ~~Human Services~~ in determining the method for calculating savings realized
26 from reduced state commitments and in educating the public about the plan
27 developed to reduce reliance on secure ~~confinement~~ out-of-home placements;
28 and

29 ~~(2)(A)~~ Make annual reports to the division, the Governor, and
30 the General Assembly regarding system reform and improvements needed to
31 implement the goals and purposes of this subchapter.

32 ~~(B) By no later than June 30, 2016, the board shall submit~~
33 ~~to the division, the Governor, and the General Assembly a plan to reduce over~~
34 ~~a two-year period the use of secure confinement for youths who do not present~~
35 ~~a serious risk to public safety.~~

36 ~~(C) The plan to reduce secure confinement shall include~~

1 ~~measurable objectives for developing and maintaining proven effective~~
2 ~~alternatives to secure confinement in communities statewide, as well as~~
3 ~~strategies to achieve those objectives throughout all parts of the juvenile~~
4 ~~justice system.~~

5 (c) To provide needed expertise, the board may seek outside technical
6 assistance to aid its work.

7
8 SECTION 14. Arkansas Code § 9-28-1203 is amended to read as follows:

9 ~~9-28-1203. Summary of savings~~ Savings in state costs realized from
10 reduction in number of secure out-of-home placements.

11 (a)(1) ~~The Division of Youth Services of the Department of Human~~
12 ~~Services, through the Youth Justice Reform Board, no later than July 1, 2016,~~
13 ~~shall establish a method to calculate state costs saved from the avoidance of~~
14 ~~and reductions in youthful offender commitments by each judicial district~~
15 that are realized from a reduction in the number of secure out-of-home
16 placements.

17 (2)(A) The division shall develop a reinvestment plan to
18 redirect savings realized from a reduction in the number of secure out-of-
19 home placements.

20 (B) The division shall complete the development of the
21 reinvestment plan under subdivision (a)(2)(A) of this section by July 1,
22 2020.

23 (C) The reinvestment plan developed by the division
24 shall:

25 (i) Support the legislative intent and purposes of
26 this subchapter by redirecting savings in state costs that are realized from
27 a reduction in the number of secure out-of-home placements;

28 (ii) Describe the methods and procedures to redirect
29 savings in state costs from a reduction in the number of secure out-of-home
30 placements through the reallocation of resources under § 19-4-522;

31 (iii) Describe the method to calculate savings in
32 state costs from a reduction in the number of secure out-of-home placements;

33 (iv) Describe criteria to redirect savings in state
34 costs to implement juvenile justice reform initiatives through evidence-based
35 programs provided by community-based providers, including without limitation
36 requirements for:

- 1 (a) Applications;
- 2 (b) Awards;
- 3 (c) Performance measures; and
- 4 (d) Monitoring processes; and
- 5 (v) Describe the methods and procedures to be used
- 6 to monitor the use of redirected savings in state costs.

7 (b) The division shall include in its annual report:

8 (1) a summary of the data and method used to calculate savings

9 generated from a reduction in commitments, in state costs that are realized

10 from the reduction in the number of secure out-of-home placements;

11 (2) the total amount of savings generated from the reduction

12 in the number of secure out-of-home placements; , and

13 (3) the impact of such reduction reductions in secure out-

14 of-home placements and the redirection of savings in state costs from the

15 reduction in the number of secure out-of-home placements on public safety and

16 youth outcomes for youths and families; and

17 (4) The overall residential budget and present and future

18 facility needs.

19 (c) The General Assembly shall consider the summary of savings in

20 making appropriations to the division to allow for the support and expansion

21 of proven effective community-based alternatives to secure ~~confinement~~ out-

22 of-home placements for youths who otherwise would have been committed to the

23 division.

24

25 SECTION 15. EFFECTIVE DATE. This act shall be effective on and after

26 July 1, 2020.

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28

29 /s/ Irvin

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32 **APPROVED: 2/21/19**