

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: S3/21/13
A Bill

HOUSE BILL 1812

By: Representative Leding
By: Senator J. Woods

For An Act To Be Entitled

AN ACT TO CLARIFY THE ADULT MALTREATMENT CUSTODY ACT;
TO ADD DEFINITIONS AND DESCRIBE THE PROCESS FOR LESS-
THAN-CUSTODY ORDERS; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THE ADULT MALTREATMENT CUSTODY
ACT; AND TO ADD DEFINITIONS AND DESCRIBE
THE PROCESS FOR LESS-THAN-CUSTODY ORDERS.

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

SECTION 1. Arkansas Code § 9-20-103(10) and (11), concerning definitions for the Adult Maltreatment Custody Act, are amended to read as follows:

(10)(A) "Impaired adult" means a person eighteen (18) years of age or older who, as a result of mental or physical impairment, is unable to protect himself or herself from abuse, sexual abuse, neglect, or exploitation.

(B) For purposes of this chapter, residents of a long-term care facility are presumed to be impaired persons.

(C) For purposes of this chapter, a person with a mental impairment does not include a person who is in need of acute psychiatric treatment, chronic mental health treatment, alcohol or drug abuse treatment, or casework supervision by mental health professionals.

(D) For purposes of this chapter, an adult who has a representative payee appointed for that adult by the Social Security



Administration or other authorized agency is presumed to be an impaired adult in relation to adult maltreatment through financial exploitation;

(11)(A) “Less-than-custody order” means ~~any~~ an emergency order issued by a circuit court of the State of Arkansas on petition or motion of the department that makes specific orders for the protection of an endangered or impaired adult but does not give the department custody over an endangered or impaired adult.

(B) A less-than-custody order may specify appropriate safeguards, including without limitation:

(i) Prohibiting a legal custodian or guardian of an endangered or impaired adult from having contact with the endangered or impaired adult;

(ii) Prohibiting a legal custodian, guardian, or holder of a power of attorney of an endangered or impaired adult from withdrawing funds from one (1) or more accounts of the endangered or impaired adult or otherwise accessing the assets of the endangered or impaired adult;
or

(iii) Requiring the endangered or impaired adult to accept services as directed by the court;

SECTION 2. Arkansas Code § 9-20-115 is amended to read as follows:

9-20-115. Emergency ~~order of custody~~ orders.

(a)(1) If there is probable cause to believe that immediate emergency custody is necessary to protect a maltreated adult, the probate division of circuit court shall issue an ex parte order for emergency custody to protect the maltreated adult.

(2) If there is probable cause to believe that immediate emergency action is necessary to protect an endangered or impaired adult from adult maltreatment, the probate division of circuit court may issue an ex parte less-than-custody order to protect the adult in lieu of an ex parte order for emergency custody.

(b) The Department of Human Services shall obtain an emergency ex parte order of custody on a maltreated adult within seventy-two (72) hours of taking the maltreated adult into emergency custody unless the expiration of the seventy-two (72) hours falls on a weekend or holiday, in which case emergency custody may be extended through the next business day following the

weekend or holiday.

(c) The emergency order shall include notice to the maltreated adult and the person from whom physical custody of the respondent was removed of the right to a hearing and that a hearing will be held within five (5) business days of the issuance of the ex parte order.

~~(d) If there is probable cause to believe that immediate action is necessary to protect the health, safety, or welfare of an endangered or impaired adult, the probate division of circuit court may issue an ex parte order necessary to protect the adult.~~

/s/Leding

APPROVED: 04/02/2013