

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003

# A Bill

HOUSE BILL 2397

4  
5 By: Representative Hathorn  
6  
7

## For An Act To Be Entitled

8 THE CARE GIVER ABUSE ACT OF 2003.  
9

## Subtitle

10 THE CARE GIVER ABUSE ACT OF 2003.  
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15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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17 SECTION 1. As used in this act:

18 (1)(A) "Childhood sexual abuse" means any act committed against  
19 the plaintiff that occurred when the plaintiff was under the age of eighteen  
20 (18) years that would have been prohibited by the Arkansas Criminal Code, §§  
21 5-1-101 et seq., and the case law interpreting those statutes, or any former  
22 law of this state that is substantially equivalent to any offense enumerated  
23 in the Arkansas Criminal Code at the time the act was committed.

24 (B) Nothing in this subdivision (1) limits the  
25 availability of causes of action permitted under section 2 of this act,  
26 including causes of action against persons or entities other than the alleged  
27 perpetrator of the abuse; and

28 (2) "Disabled" means any person who has been deemed "disabled,"  
29 or who is deemed to have been "disabled" by any medical or psychological  
30 provider at the time of the alleged wrongful conduct.  
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32 SECTION 2. (a) There shall be no time limit for commencement of a  
33 cause of action in a civil cause action by:

34 (1) A child or minor under the age of eighteen (18) years; or

35 (2) Any person who, at the time the wrongful act was committed,  
36 was mentally, physically, or developmentally disabled, or had any other kind



1 of disorder, as a result of civil battery, civil assault, sexual abuse, or  
 2 otherwise.

3 (b) The cause of action will survive the death of the person who  
 4 accrued the cause of action to the heirs of the deceased person.

5 (c) Any claim described in subsection (a) of this section that would  
 6 otherwise be barred because the applicable statute of limitations has  
 7 expired, is revived, and a cause of action may be commenced.

8 (d) Subsection (c) of this section does not apply to either of the  
 9 following:

10 (1)(A) Any claim that has been litigated to finality on the  
 11 merits in any court of competent jurisdiction prior to the effective date of  
 12 this act.

13 (B) Termination of a prior action on the basis of the  
 14 statute of limitations does not constitute a claim that has been litigated to  
 15 finality on the merits; or

16 (2) Any written, compromised settlement agreement which has been  
 17 entered into between a plaintiff and a defendant where the plaintiff was  
 18 represented by an attorney at the time of the settlement, and the plaintiff  
 19 signed the agreement.

20 (e) The plaintiff shall be named as a "Doe" designation in any  
 21 pleadings or papers filed in any civil cause of action initiated under this  
 22 act.

23  
 24 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
 25 General Assembly of the State of Arkansas that a serious problem exists in  
 26 Arkansas for individuals who have been abused by caregivers; that abusers may  
 27 become teachers, instructors, or workers in order to abuse, sexually or  
 28 otherwise, people or minors in their care; and that this act is immediately  
 29 necessary because many individuals, particularly minors or people who are  
 30 disabled may not be aware of, or will not report abuse until statutes of  
 31 limitation have long run on any potential claim or remedy. Therefore, an  
 32 emergency is declared to exist and this act being necessary for the  
 33 preservation of the public peace, health, and safety shall become effective  
 34 on July 1, 2003.