

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

State of Arkansas  
89th General Assembly  
Regular Session, 2013

*As Engrossed: S3/21/13*  
**A Bill**

HOUSE BILL 1813

By: Representative Leding  
By: *Senator J. Woods*

### **For An Act To Be Entitled**

AN ACT TO CLARIFY THE ADULT AND LONG-TERM CARE FACILITY RESIDENT MALTREATMENT ACT; TO ADD DEFINITIONS AND TO DESCRIBE THE PROCEDURES OF THE DEPARTMENT OF HUMAN SERVICES; AND FOR OTHER PURPOSES.

### **Subtitle**

TO CLARIFY THE ADULT AND LONG-TERM CARE FACILITY RESIDENT MALTREATMENT ACT; AND TO ADD DEFINITIONS AND TO DESCRIBE THE PROCEDURES OF THE DEPARTMENT OF HUMAN SERVICES.

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

SECTION 1. Arkansas Code § 12-12-1703(9)(A), concerning the definition of impaired person for the Adult and Long-Term Care Facility Resident Maltreatment Act, is amended to read as follows:

(9)(A) "Impaired person" 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 subchapter, a long-term care facility resident is presumed to be an impaired person~~+~~.

(C) For purposes of this subchapter, a person who has a representative payee appointed for the person by the Social Security Administration or another authorized agency is presumed to be an impaired



person in relation to adult maltreatment through financial exploitation;

SECTION 2. Arkansas Code § 12-12-1703(15)(B)(iii) and (iv), concerning the definition of neglect for the Adult and Long-Term Care Facility Resident Maltreatment Act, are amended to read as follows:

(iii) Negligently failing to carry out a ~~prescribed~~ treatment plan developed or implemented by the facility; or

(iv) Negligently failing to provide goods or services to a long-term care facility resident necessary to avoid physical harm, mental anguish, or mental illness ~~as defined in rules promulgated by the Office of Long-Term Care;~~

SECTION 3. Arkansas Code § 12-12-1708, concerning persons required to report adult or long-term care facility resident maltreatment, is amended to add an additional subsection to read as follows:

(d)(1) Upon request the Department of Human Services shall provide a person listed in subsection (a)(1) of this section with confirmation of receipt of a report of maltreatment.

(2) However, confirmation shall consist only of the acknowledgement of receipt of the report and the date the report was made to the department.

SECTION 4. Arkansas Code § 12-12-1710(b)(3), concerning investigations by the Department of Human Services under the Adult and Long-Term Care Facility Resident Maltreatment Act, is amended to read as follows:

(3) If requested by the department, a law enforcement agency possessing jurisdiction shall assist in the investigation of any case of suspected adult maltreatment or long-term care facility resident maltreatment, including accompanying the department's investigator if the department has a reasonable belief that the investigator's safety could be compromised.

SECTION 5. Arkansas Code § 12-12-1715(a)(1)(B), concerning subpoenas in administrative adjudications, is amended to read as follows:

(B)(i) An unfounded hard copy report shall be ~~expunged~~ destroyed one (1) year after the completion of the investigation-

~~(ii) Demographic information may be retained for statistical purposes; or~~

SECTION 6. Arkansas Code § 12-12-1717(a)(7), concerning the availability of founded reports of adult or long-term care facility resident maltreatment, is repealed.

~~(7)(A) A mandated reporter who has made a report of suspected maltreatment.~~

~~(B) However, a mandated reporter shall receive the information only to the extent that he or she may be informed after completion and closure of the investigation whether:~~

~~(i) Legal action was taken;~~

~~(ii) Services were provided; or~~

~~(iii) No action was taken.~~

~~(C) No further information shall be released to a mandated reporter, and the mandated reporter shall be informed of the confidentiality of the information and the penalties for disclosure;~~

SECTION 7. Arkansas Code § 12-12-1717(a)(9), concerning the availability of founded reports of adult or long-term care facility resident maltreatment, is amended to read as follows:

(9) The department, including the Death Review Committee of the Department of Human Services;

SECTION 8. Arkansas Code § 12-12-1717(a)(16), concerning the availability of founded reports of adult or long-term care facility resident maltreatment, is repealed.

~~(16) The Division of Developmental Disabilities Services and the Division of Aging and Adult Services as to participants of the waiver program; and~~

SECTION 9. Arkansas Code § 12-12-1717(b)(2), concerning the availability of founded reports of adult or long-term care facility resident maltreatment, is amended to read as follows:

(2) Except for the subject of the report, no person or agency to whom disclosure is made may disclose to any other person or agency a report

or other information obtained under this section.

SECTION 10. Arkansas Code § 12-12-1718(b)(1)(K), concerning the availability of screened out, pending, and unfounded reports of adult or long-term care facility resident maltreatment, is amended to read as follows:

~~(K) The Division of Developmental Disabilities Services and the Division of Aging and Adult Services as to participants of the waiver program.~~

SECTION 11. Arkansas Code § 12-12-1718(c)(12), concerning the availability of screened out, pending, and unfounded reports of adult or long-term care facility resident maltreatment, is amended to read as follows:

~~(12) The Division of Developmental Disabilities Services and the Division of Aging and Adult Services as to participants of the waiver program.~~

SECTION 12. Arkansas Code § 12-12-1718(d) and (e)), concerning the availability of screened out, pending, and unfounded reports of adult or long-term care facility resident maltreatment, are amended to read as follows:

~~(d)(1) An unfounded report shall be expunged one (1) year after completion of the investigation~~ The department may retain automated information on unfounded reports for statistical purposes, to assess future risk, and to identify false reporting.

~~(2) However, demographic information may be retained for statistical purposes.~~

(e)(1) Except for the subject of the report, no person or agency to which disclosure is made may disclose to any other person or agency a report or other information obtained under this section.

(2) Upon conviction, any person disclosing information in violation of this subsection is guilty of a Class C misdemeanor.

SECTION 13. Arkansas Code § 12-12-1722(a), concerning services available on investigative finding of ~~true or unsubstantiated~~ founded or unfounded reports of abuse of adult or long-term care facility resident maltreatment, is amended to read as follows:

(a) If an investigation under this subchapter is determined to be ~~true~~ founded, the Department of Human Services may open a protective services case.

SECTION 14. Arkansas Code § 12-12-1722(e), concerning services available on investigative finding of true or unsubstantiated reports of abuse of adult or long-term care facility resident maltreatment, is amended to read as follows:

(e) If the report of adult maltreatment is deemed ~~unsubstantiated~~ unfounded, the department may offer supportive services to the alleged endangered person or impaired person.

SECTION 15. Arkansas Code Title 12, Chapter 12, Subchapter 17, is amended to add an additional section to read as follows:

12-12-1723. Rules.

The Director of the Department of Human Services may adopt rules to implement this subchapter.

*/s/Leding*