

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
4

A Bill

Act 1164 of 2003
HOUSE BILL 2393

5 By: Representative Stovall
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For An Act To Be Entitled

8 AN ACT TO AMEND THE PROVISIONS CONCERNING
9 INVESTIGATIONS BY THE ATTORNEY GENERAL AND THE
10 DEPARTMENT OF HUMAN SERVICES; AND FOR OTHER
11 PURPOSES.
12
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Subtitle

14 AN ACT TO AMEND THE PROVISIONS
15 CONCERNING INVESTIGATIONS BY THE
16 ATTORNEY GENERAL AND THE DEPARTMENT OF
17 HUMAN SERVICES.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 5-28-107 is amended to read as follows:

24 5-28-107. Investigation by Attorney General ~~and Department of Human~~
25 ~~Services.~~

26 ~~(a) The Department of Human Services shall have jurisdiction to~~
27 ~~investigate cases of suspected abuse, neglect, or exploitation of an~~
28 ~~endangered or impaired adult.~~

29 ~~(b)~~(a) The Office of the Attorney General shall have concurrent
30 jurisdiction to investigate cases of suspected abuse, neglect, or
31 exploitation of an endangered or impaired adult in a long-term care facility
32 certified pursuant to Title XIX of the Social Security Act.

33 (b) If requested by the Office of the Attorney General, law
34 enforcement agencies shall assist in the investigation of any case of
35 suspected abuse, neglect, or exploitation of an endangered or impaired adult.

36 ~~(c) After a thorough investigation, the Attorney General may make a~~



1 ~~referral to the prosecuting attorney having criminal jurisdiction in the~~
 2 ~~matter, or take appropriate civil action as provided in this chapter.~~ The
 3 purposes of an investigation are to obtain and develop information that may
 4 be necessary to:

5 (1) Protect abused, neglected, or exploited adults;

6 (2) Refer for criminal prosecution those persons who abuse,
 7 neglect, or exploit any endangered or impaired adult; and

8 (3) Initiate civil action, where appropriate, to protect abused,
 9 neglected, and exploited adults.

10 (d) The Attorney General shall conduct a thorough investigation which
 11 may include a medical, psychological, social, vocational, financial, and
 12 educational evaluation and review.

13 (e)(1) Upon request, the medical, mental health, or other records
 14 regarding the abused, neglected, or exploited adult maintained by any
 15 facility or maintained by any person required by this chapter to report
 16 suspected abuse, neglect, or exploitation shall be made available to the
 17 Attorney General for the purposes of conducting an investigation under this
 18 chapter.

19 (2) Upon request, financial records maintained by a bank or a
 20 similar institution shall be made available to the Attorney General for the
 21 purpose of conducting an investigation under this chapter.

22 (f)(1) A subpoena requiring the production of documents or the
 23 attendance of a witness at an interview, trial, or hearing conducted pursuant
 24 to the jurisdiction of the Medicaid Fraud Division of the Office of the
 25 Attorney General, may be served by the Attorney General or any duly
 26 authorized law enforcement officer in the state of Arkansas personally,
 27 telephonically, or by registered or certified mail.

28 (2) In the case of service by registered or certified mail, the
 29 return post office receipt of delivery of such subpoena shall accompany the
 30 return.

31 (g)(1) If a facility or person upon whom a subpoena is served objects
 32 or otherwise fails to comply with the Attorney General's request for records,
 33 the Attorney General may file an action in circuit court for an order to
 34 enforce the request.

35 (2) Venue for the action to enforce the request shall be in
 36 Pulaski County.

1 (h) The circuit court, upon cause shown, shall order the facility or
2 person who maintains the medical, mental health, or other records regarding
3 the abused, neglected, or exploited adult to tender the requested records to
4 the Attorney General for the purpose of conducting an investigation under
5 this chapter.

6 (i)(1) Records obtained by the Attorney General pursuant to this
7 subchapter shall be classified as confidential information and shall not be
8 subject to outside review or release by any individual except when records
9 are used or potentially to be used by any governmental entity in any legal,
10 administrative, or judicial proceeding.

11 (2) Notwithstanding any other law to the contrary, no person
12 shall be subject to any civil or criminal liability for providing records or
13 providing access to records to the Attorney General or to the prosecuting
14 attorneys.

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17 **APPROVED: 4/8/2003**
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