

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.

Act 255 of the Regular Session

As Engrossed: S1/27/05 S2/3/05

A Bill

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

SENATE BILL 100

4
5 By: Senator Salmon
6 By: Representative S. Prater

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9 **For An Act To Be Entitled**

10 AN ACT TO CLARIFY THE MEANING OF NEGLECT UNDER
11 THE ADULT MALTREATMENT ACT; TO REQUIRE THAT
12 REPORTS OF ADULT MALTREATMENT BE MADE WITHIN
13 TWENTY-FOUR (24) HOURS; TO PROVIDE PENALTIES FOR
14 FAILURE TO PROPERLY REPORT ADULT MALTREATMENT; TO
15 AMEND THE ADULT MALTREATMENT ACT; TO ESTABLISH A
16 PENALTY FOR FAILURE TO REPORT DEATHS CAUSED BY
17 ADULT MALTREATMENT; AND FOR OTHER PURPOSES.

18
19 **Subtitle**

20 AN ACT TO CLARIFY THE ADULT MALTREATMENT
21 ACT.

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

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26 SECTION 1. Arkansas Code § 5-28-101(10), defining the term "neglect"
27 for purposes of the adult maltreatment act, is amended to read as follows:

28 (10) "Neglect" means ~~acts or omissions by an endangered adult;~~
29 ~~for example, self-neglect or intentional acts or omissions by a caregiver~~
30 ~~responsible for the care and supervision of an endangered or impaired adult~~
31 ~~constituting:~~

32 (A) An act or omission by an endangered or impaired adult,
33 including self-neglect; or

34 (B) An intentional act or omission by a caregiver
35 responsible for the care and supervision of an endangered or impaired adult



1 constituting:

2 ~~(A)(i)~~ Negligently failing to provide necessary treatment,
3 rehabilitation, care, food, clothing, shelter, supervision, or medical
4 services to an endangered or impaired adult;

5 ~~(B)(ii)~~ Negligently failing to report health problems or
6 changes in health problems or changes in the health condition of an
7 endangered or impaired adult to the appropriate medical personnel; or

8 ~~(C)(iii)~~ Negligently failing to carry out a prescribed
9 treatment plan;

10 ~~(D)(iv)~~ Failing to provide goods and services necessary to
11 avoid physical harm, mental anguish, or mental illness as defined in
12 regulations promulgated by the Office of Long-Term Care of the Division of
13 Medical Services of the Department of Human Services to an adult resident of
14 a long-term care facility;

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16 SECTION 2. Arkansas Code § 5-28-203 is amended to read as follows:

17 5-28-203. Persons required to report adult maltreatment -- Penalty.

18 (a)(1) Whenever any of the following has observed or has reasonable
19 cause to suspect that an endangered or impaired adult has been subjected to
20 conditions or circumstances which would reasonably result in adult
21 maltreatment, as defined in this chapter, he or she shall immediately report
22 or cause a report to be made in accordance with the provisions of this
23 section:

24 (A) A physician;

25 (B) A surgeon;

26 (C) A coroner;

27 (D) A dentist;

28 (E) An osteopath;

29 (F) A resident intern;

30 (G) A nurse;

31 (H) Hospital personnel who are engaged in the
32 administration, examination, care, or treatment of persons;

33 (I) Any social worker;

34 (J) A case manager;

35 (K) A case worker;

36 (L) A mental health professional;

- 1 (M) A peace officer;
- 2 (N) A law enforcement officer;
- 3 (O) A facility administrator;
- 4 (P) An employee in a facility;
- 5 (Q) An employee of the Department of Human Services;
- 6 (R) A firefighter;
- 7 (S) An emergency medical technician; or
- 8 (T) An employee of a bank or other financial institution.

9 (2) Whenever a person is required to report under this chapter
 10 in his or her capacity as a member of the staff, an employee in a facility,
 11 or an employee of the department, he or she shall immediately notify the
 12 person in charge of the institution, facility, or agency, or that person's
 13 designated agent, who shall then become responsible for making a report or
 14 *cause a report to be made within twenty-four (24) hours or on the next*
 15 *business day, whichever is later.*

16 (3) In addition to those persons and officials required to
 17 report suspected maltreatment, any other person may make a report if the
 18 person has reasonable cause to suspect that an adult has been maltreated, as
 19 defined in this chapter.

20 (b)(1) A report for maltreated adults residing in a long-term care
 21 facility shall be made:

22 (A) Immediately to the local law enforcement agency for
 23 the jurisdiction in which the facility is located; and

24 (B) To the Office of Long-Term Care of the Division of
 25 Medical Services of the Department of Human Services, pursuant to regulations
 26 of that office.

27 (2) Reports of maltreated adults who do not reside in a long-
 28 term care facility shall be made to the adult maltreatment hotline.

29 (c) No privilege or contract shall relieve anyone required by this
 30 subchapter to make notification of the requirement of making notification.

31 (d) Any person required by this chapter to report adult maltreatment
 32 who knowingly fails to make a report in the manner and time provided in this
 33 chapter is guilty of a Class C misdemeanor and shall be punished as provided
 34 by law.

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36 SECTION 3. Arkansas Code § 5-28-204 is amended to read as follows:

1 5-28-204. Report of death caused by maltreatment -- Penalty.

2 (a)(1) Any person or official who is required to report cases of
3 suspected maltreatment of adults under the provisions of this chapter and who
4 has reasonable cause to suspect that an adult has died as a result of
5 maltreatment shall report that fact to the appropriate medical examiner or
6 coroner.

7 (2)(A) In all cases of the death of a long-term care facility
8 resident or a hospice facility resident, the long-term care facility or the
9 hospice facility shall immediately report the death to the appropriate
10 coroner.

11 (B) The report is required regardless of whether the
12 facility believes the death to be from natural causes or the result of
13 maltreatment or any other cause.

14 (3)(A) In all cases of the death of an individual in a hospital
15 who was a resident of a long-term care facility within five (5) days of
16 entering the hospital, the hospital shall immediately report the death to the
17 appropriate coroner.

18 (B) The report is required regardless of whether the
19 hospital believes the death to be from natural causes or the result of
20 maltreatment or any other cause.

21 (b)(1) The medical examiner or coroner shall accept the report for
22 investigation and, upon finding reasonable cause to suspect that an adult has
23 died as a result of maltreatment, shall report the findings to the police and
24 the appropriate prosecuting attorney.

25 (2) If the institution making the report is a hospital or
26 nursing home, the coroner shall report the findings to the hospital or
27 nursing home unless the findings are part of a pending or ongoing law
28 enforcement investigation.

29 (c) The medical examiner, coroner, or hospital shall also report the
30 findings to the Department of Human Services when:

31 (1) Reasonable cause exists to believe the death resulted from
32 maltreatment of an adult; or

33 (2) There is a pending investigation concerning allegations of
34 maltreatment occurring prior to death, upon request of the department.

35 (d) Any person required by this chapter to report deaths caused by
36 maltreatment who knowingly fails to make a report in the manner and time

1 provided in this chapter is guilty of a Class C misdemeanor and shall be
2 punished as provided by law.

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/s/ Salmon

APPROVED: 2/22/2005

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