

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 121 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H2/2/07

A Bill

HOUSE BILL 1305

5 By: Representative Webb
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For An Act To Be Entitled

9 AN ACT TO INCLUDE THE DEFINITION OF "IMPAIRED
10 PERSON" IN THE ADULT MALTREATMENT CUSTODY ACT
11 WITHIN THE DEFINITION OF "INCAPACITATED PERSON"
12 IN THE ARKANSAS GUARDIANSHIP LAW; AND FOR OTHER
13 PURPOSES.
14

Subtitle

15 AN ACT TO INCLUDE "IMPAIRED PERSON" IN
16 THE DEFINITION OF "INCAPACITATED
17 PERSON" FOR GUARDIANSHIPS.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 28-65-101 is amended to read as follows:
25 28-65-101. Definitions.

26 As used in this chapter:

27 (1) "Essential requirements for health or safety" means the
28 health care, food, shelter, clothing, and protection without which serious
29 illness or serious physical injury will occur;

30 (2) "Evaluation" means a professional assessment of the
31 abilities of the respondent and the impact of any impairments on the
32 individual's capability to meet the essential requirements for his or her
33 health or safety or to manage his or her estate;

34 (3) "Guardian" is one appointed by a court to have the care and
35 custody of the person or of the estate, or of both, of an incapacitated



1 person;

2 (4) "Guardian ad litem" is one appointed by a court in which a
3 particular proceeding is pending to represent a ward or an unborn person in
4 that proceeding;

5 (5)(A) "Incapacitated person" means a person who is impaired by
6 reason of a disability such as mental illness, mental deficiency, physical
7 illness, chronic use of drugs, or chronic intoxication, to the extent of
8 lacking sufficient understanding or capacity to make or communicate decisions
9 to meet the essential requirements for his or her health or safety or to
10 manage his or her estate.

11 (B) "Incapacitated person" includes an impaired adult as
12 defined in the Adult Maltreatment Custody Act, § 9-20-103(8)(A) who is in the
13 custody of the Department of Health and Human Services.

14 ~~(B)(C)~~ Nothing in this chapter shall be construed to mean
15 a person is incapacitated for the sole reason he or she relies consistently
16 on treatment by spiritual means through prayer alone for healing in
17 accordance with his or her religious tradition and is being furnished such
18 treatment;

19 (6) "Least restrictive alternative" means the form of assistance
20 that least interferes with the legal capacity of the respondent to act in his
21 or her own behalf;

22 (7) "Limited guardian" is one whose powers and authority have
23 been limited to the specific powers, authorities, and duties set forth in the
24 order of appointment;

25 (8) "Professional" means a physician, licensed psychologist, or
26 licensed certified social worker with training, experience, and knowledge of
27 the particular alleged disability of the respondent;

28 (9) "Temporary guardian" means a guardian appointed pursuant to
29 § 28-65-218; and

30 (10) "Ward" is an incapacitated person for whom a guardian has
31 been appointed.

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/s/ Webb

APPROVED: 2/16/2007