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2 89th General Assembly
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4

As Engrossed: S3/21/13
A Bill

HOUSE BILL 1813

5 By: Representative Leding
6 *By: Senator J. Woods*
7

8 **For An Act To Be Entitled**

9 AN ACT TO CLARIFY THE ADULT AND LONG-TERM CARE
10 FACILITY RESIDENT MALTREATMENT ACT; TO ADD
11 DEFINITIONS AND TO DESCRIBE THE PROCEDURES OF THE
12 DEPARTMENT OF HUMAN SERVICES; AND FOR OTHER PURPOSES.
13

14
15 **Subtitle**

16 TO CLARIFY THE ADULT AND LONG-TERM CARE
17 FACILITY RESIDENT MALTREATMENT ACT; AND
18 TO ADD DEFINITIONS AND TO DESCRIBE THE
19 PROCEDURES OF THE DEPARTMENT OF HUMAN
20 SERVICES.
21

22
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

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

28 (9)(A) "Impaired person" means a person eighteen (18) years of
29 age or older who as a result of mental or physical impairment is unable to
30 protect himself or herself from abuse, sexual abuse, neglect, or
31 exploitation.

32 (B) For purposes of this subchapter, a long-term care
33 facility resident is presumed to be an impaired person~~+~~.

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



1 person in relation to adult maltreatment through financial exploitation;

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

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

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

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

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

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

22
23 SECTION 4. Arkansas Code § 12-12-1710(b)(3), concerning investigations
24 by the Department of Human Services under the Adult and Long-Term Care
25 Facility Resident Maltreatment Act, is amended to read as follows:

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

32
33 SECTION 5. Arkansas Code § 12-12-1715(a)(1)(B), concerning subpoenas
34 in administrative adjudications, is amended to read as follows:

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

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

3
4 SECTION 6. Arkansas Code § 12-12-1717(a)(7), concerning the
5 availability of founded reports of adult or long-term care facility resident
6 maltreatment, is repealed.

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

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

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

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

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

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

18
19 SECTION 7. Arkansas Code § 12-12-1717(a)(9), concerning the
20 availability of founded reports of adult or long-term care facility resident
21 maltreatment, is amended to read as follows:

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

24
25 SECTION 8. Arkansas Code § 12-12-1717(a)(16), concerning the
26 availability of founded reports of adult or long-term care facility resident
27 maltreatment, is repealed.

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

31
32 SECTION 9. Arkansas Code § 12-12-1717(b)(2), concerning the
33 availability of founded reports of adult or long-term care facility resident
34 maltreatment, is amended to read as follows:

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

1 or other information obtained under this section.

2
3 SECTION 10. Arkansas Code § 12-12-1718(b)(1)(K), concerning the
4 availability of screened out, pending, and unfounded reports of adult or
5 long-term care facility resident maltreatment, is amended to read as follows:

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

9
10 SECTION 11. Arkansas Code § 12-12-1718(c)(12), concerning the
11 availability of screened out, pending, and unfounded reports of adult or
12 long-term care facility resident maltreatment, is amended to read as follows:

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

16
17 SECTION 12. Arkansas Code § 12-12-1718(d) and (e)), concerning the
18 availability of screened out, pending, and unfounded reports of adult or
19 long-term care facility resident maltreatment, are amended to read as
20 follows:

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

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

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

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

32
33 SECTION 13. Arkansas Code § 12-12-1722(a), concerning services
34 available on investigative finding of ~~true or unsubstantiated~~ founded or
35 unfounded reports of abuse of adult or long-term care facility resident
36 maltreatment, is amended to read as follows:

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

4
5 SECTION 14. Arkansas Code § 12-12-1722(e), concerning services
6 available on investigative finding of true or unsubstantiated reports of
7 abuse of adult or long-term care facility resident maltreatment, is amended
8 to read as follows:

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

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

15 12-12-1723. Rules.

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

18
19 */s/Leding*

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22 **APPROVED: 04/02/2013**