

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 1162 of 2003
HOUSE BILL 2391

5 By: Representative Stovall
6
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For An Act To Be Entitled

9 AN ACT TO CLARIFY THE JURISDICTION OF THE OFFICE
10 OF THE ATTORNEY GENERAL AND THE APPLICABILITY OF
11 CIVIL FINES FOR VIOLATIONS OF THE ADULT ABUSE
12 ACT; AND FOR OTHER PURPOSES.
13

Subtitle

15 AN ACT TO CLARIFY THE JURISDICTION OF
16 THE OFFICE OF THE ATTORNEY GENERAL AND
17 THE APPLICABILITY OF CIVIL FINES FOR
18 VIOLATIONS OF THE ADULT ABUSE ACT.
19
20

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

23 SECTION 1. Arkansas Code § 5-28-106 is hereby amended to read as
24 follows:

25 5-28-106. Civil Penalties.

26 (a)(1) The State of Arkansas and the Attorney General may institute a
27 civil action against any long-term care facility caregiver necessary to
28 enforce any provision of this chapter.

29 (2) Notwithstanding any criminal penalties assessed under this
30 chapter, any caregiver against whom any civil judgment is entered as the
31 result of a civil action brought by the State of Arkansas through the
32 Attorney General on a complaint alleging that caregiver to have abused,
33 neglected, or exploited an endangered or impaired adult in a long-term care
34 facility ~~required to be licensed under 20-10-244~~ certified under Title XIX of
35 the Social Security Act shall be subject to pay a civil penalty:

36 (A) Not to exceed ten thousand dollars (\$10,000) for each



1 violation judicially found to have occurred; or

2 (B) Not to exceed fifty thousand dollars (\$50,000) for the
 3 death of an adult in a long-term care facility which results from a single
 4 violation.

5 (3) (A) The State of Arkansas and the Attorney General shall not be
 6 precluded from recovering civil penalties under subdivision (a)(2)(A) of this
 7 section for the death of an adult which results from multiple violations.

8 (B) However, the State of Arkansas and the Attorney
 9 General shall be prohibited from recovering civil penalties under both
 10 subdivisions (a)(2)(A) and (B) of this section.

11 (b) In any action brought pursuant to this section, the State of
 12 Arkansas shall be required to prove all essential elements of the cause of
 13 action, including damages, by a preponderance of the evidence.

14 (c) Any penalty shall be paid into the Treasury of the State of
 15 Arkansas and credited to the Arkansas Medicaid Program Trust Fund.

16 (d) Any caregiver against whom any civil judgment is entered as the
 17 result of a civil action brought or threatened to be brought under this
 18 section by the State of Arkansas through the Attorney General shall be
 19 required to pay to the Attorney General all reasonable expenses which the
 20 court determines have been necessarily incurred in the enforcement of this
 21 chapter.

22 (e) A civil action under this section may not be brought more than
 23 three (3) years after the date on which the violation of this subchapter is
 24 committed.

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 26 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
 27 General Assembly of the State of Arkansas that the Adult Abuse Statute is in
 28 immediate need of a revision to clarify an ambiguity in the law; and that the
 29 provisions of this act are essential to successful operations and activities
 30 of the Medicaid Fraud Control Unit and the Department of Human Services.
 31 Therefore, an emergency is declared to exist and this act being immediately
 32 necessary for the preservation of the public peace, health, and safety shall
 33 become effective on:

34 (1) The date of its approval by the Governor;

35 (2) If the bill is neither approved nor vetoed by the Governor,
 36 the expiration of the period of time during which the Governor may veto the

1 bill; or

2 (3) If the bill is vetoed by the Governor and the veto is
3 overridden, the date the last house overrides the veto.

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APPROVED: 4/8/2003