

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Bell**

A Bill

SENATE BILL 412

For An Act To Be Entitled

8 "AN ACT TO AMEND TITLE 20, CHAPTER 76, SUBCHAPTER 4 OF THE
9 ARKANSAS CODE ANNOTATED BY ADDING A NEW SECTION § 20-76-
10 436 AND TO AMEND §§ 28-40-111 AND 28-41-101 TO PROVIDE
11 THAT THE ARKANSAS DEPARTMENT OF HUMAN SERVICES MAY RECOVER
12 PUBLIC ASSISTANCE BENEFITS FROM THE ESTATES OF RECIPIENTS;
13 AND FOR OTHER PURPOSES."

Subtitle

16 "TO PROVIDE THAT THE DEPARTMENT OF HUMAN SERVICES MAY
17 RECOVER PUBLIC ASSISTANCE BENEFITS FROM THE ESTATES OF
18 RECIPIENTS."

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

22 SECTION 1. Title 20, Chapter 76, Subchapter 4 of the Arkansas Code
23 Annotated is hereby amended by adding a new section to read as follows:

24 "20-76-436. Federal or state benefits in cash or in kind, including,
25 but not limited to, Medicaid, Aid to Families with Dependent Children, and
26 Food Stamps distributed or paid by the Arkansas Department of Human Services,
27 as well as charges levied by the Department of Human Services for services
28 rendered, shall, upon death of the recipient, constitute a debt to be paid.
29 The Department of Human Services may make claim against the estate of a
30 deceased recipient for the amount of any benefits distributed or paid, or
31 charges levied, by the Department of Human Services."

33 SECTION 2. Arkansas Code § 28-40-111(a) is hereby amended to read as
34 follows:

35 "(a) (1) Promptly after the letters have been granted on the estate of a

1 deceased person, the personal representative shall cause a notice of his
2 appointment to be published stating the date of his appointment and requiring
3 all persons having claims against the estate to exhibit them, properly
4 verified to him, within three (3) months from the date of the first
5 publication of the notice, or they shall be forever barred and precluded from
6 any benefit in such estate. However, claims for injury or death caused by the
7 negligence of the decedent shall be filed within six (6) months from the date
8 of first publication of the notice, or they shall be forever barred and
9 precluded any benefit in the estate.

10 (2) The notice shall state the mailing address of the personal
11 representative.

12 (3) If a will of the decedent has been probated, the notice shall
13 also state the date of admission of the will to probate and that a contest of
14 the order of probate can be effected only by filing a petition within the time
15 provided by law.

16 (4) Within one (1) month after the first publication of the
17 notice, a copy of the notice shall also be served upon each heir and devisee
18 whose name and address are known and upon all unpaid creditors whose names,
19 status as creditors, and addresses are known to or reasonably ascertainable by
20 the personal representative, including the Arkansas Department of Human
21 Services if it is known or could reasonably be ascertained that the Department
22 of Human Services has rendered services to the decedent, in accordance with §
23 28-1-112(b)(1), (2), or (3). Notice to the Department of Human Services shall
24 be served upon the Office of Chief Counsel, Decedent_s Estates, P.O. Box 1437,
25 Little Rock, AR 72203. A copy of the petition for probate of a will or
26 administration of an estate and the decedent_s social security number shall be
27 attached to the notice served upon the Department of Human Services. If,
28 thereafter, the names and addresses of any such creditors are ascertained, a
29 copy of the notice shall be promptly served upon them. The burden of proof on
30 any issue as to whether a creditor was known to or reasonably ascertainable by
31 the personal representative shall be upon the creditor claiming entitlement to
32 such actual notice."

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34 SECTION 3. Arkansas Code § 28-41-101(a)(4)(B) is hereby amended to read
35 as follows:

1 "(a) The distributees of an estate shall be entitled thereto without
2 the appointment of a personal representative when:

3 (1) No petition for the appointment of a personal representative
4 is pending or has been granted; and

5 (2) Forty-five (45) days have elapsed since the death of the
6 decedent; and

7 (3) The value, less encumbrances, of all property owned by the
8 decedent at the time of death, excluding the homestead of and the statutory
9 allowances for the benefit of a spouse or minor children, if any, of the
10 decedent, does not exceed fifty thousand dollars (\$50,000); and

11 (4) There shall be filed with the clerk of the probate court of
12 the county of proper venue for administration an affidavit of one (1) or more
13 of the distributees setting forth:

14 (A) That the decedent left no will or that his will has
15 been admitted to probate; and

16 (B) That there are no unpaid claims or demands against the
17 decedent or his estate, that the Arkansas Department of Human Services
18 furnished no federal or state benefits to the decedent, or, that if such
19 benefits have been furnished, the Department of Human Services has been
20 reimbursed in accordance with state and federal laws and regulations; and

21 (C) An itemized description and valuation of property of
22 the decedent, including the homestead; and

23 (D) The names and addresses of persons having possession of
24 the property; and

25 (E) The names, addresses, and relationship to the decedent
26 of the persons entitled to and who will receive the property; and

27 (5) There is furnished to any person owing any money, having
28 custody of any property, or acting as registrar or transfer agent of any
29 evidence of interest, indebtedness, property, or right, a copy of the
30 affidavit certified by the clerk."

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32 SECTION 4. All provisions of this act of a general and permanent nature
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
34 Revision Commission shall incorporate the same in the Code.

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1 SECTION 5. If any provision of this act or the application thereof to
2 any person or circumstance is held invalid, such invalidity shall not affect
3 other provisions or applications of the act which can be given effect without
4 the invalid provision or application, and to this end the provisions of this
5 act are declared to be severable.

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7 SECTION 6. All laws and parts of laws in conflict with this act are
8 hereby repealed.

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/s/ Senator Bell

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