

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

As Engrossed: H3/19/03

A Bill

HOUSE BILL 2397

5 By: Representative Hathorn
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For An Act To Be Entitled

8 THE CARE GIVER ABUSE ACT OF 2003.
9

Subtitle

10 THE CARE GIVER ABUSE ACT OF 2003.
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15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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17 SECTION 1. As used in this act:

18 (1)(A) "Childhood sexual abuse" means any act committed against
19 the plaintiff that occurred when the plaintiff was under the age of eighteen
20 (18) years that would have been prohibited by the Arkansas Criminal Code, §§
21 5-1-101 et seq., and the case law interpreting those statutes, or any former
22 law of this state that is substantially equivalent to any offense enumerated
23 in the Arkansas Criminal Code at the time the act was committed.

24 (B) Nothing in this subdivision (1) limits the
25 availability of causes of action permitted under section 2 of this act,
26 including causes of action against persons or entities other than the alleged
27 perpetrator of the abuse; and

28 (2) "Disabled" means any person who has been deemed "disabled,"
29 or who is deemed to have been "disabled" by any medical or psychological
30 provider at the time of the alleged wrongful conduct.
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32 SECTION 2. (a) There shall be no time limit for commencement of a
33 cause of action for sexual or physical abuse committed against:

34 (1) A child or minor under the age of eighteen (18) years; or

35 (2) Any person who, at the time the wrongful act was committed,
36 was mentally, physically, or developmentally disabled, or had any other kind



1 of disorder, and was unable to give legal consent.

2 (b) The cause of action will survive the death of the person who
3 accrued the cause of action to the heirs of the deceased person.

4 (c) Any claim described in subsection (a) of this section that would
5 otherwise be barred because the applicable statute of limitations has
6 expired, is revived, and a cause of action may be commenced.

7 (d) Subsection (c) of this section does not apply to either of the
8 following:

9 (1)(A) Any claim that has been litigated to finality on the
10 merits in any court of competent jurisdiction prior to the effective date of
11 this act.

12 (B) Termination of a prior action on the basis of the
13 statute of limitations does not constitute a claim that has been litigated to
14 finality on the merits; or

15 (2) Any written, compromised settlement agreement which has been
16 entered into between a plaintiff and a defendant where the plaintiff was
17 represented by an attorney at the time of the settlement, and the plaintiff
18 signed the agreement.

19 (e) The plaintiff shall be named as a "Doe" designation in any
20 pleadings or papers filed in any civil cause of action initiated under this
21 act.

22 (f) Any person committing an act enumerated in subsection (a) of this
23 section shall be deemed to be acting intentionally if that person knew or
24 should have known that the act was committed against a minor or a disabled
25 person.

26 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
27 General Assembly of the State of Arkansas that a serious problem exists in
28 Arkansas for individuals who have been abused by caregivers; that abusers may
29 become teachers, instructors, or workers in order to abuse, sexually or
30 otherwise, people or minors in their care; and that this act is immediately
31 necessary because many individuals, particularly minors or people who are
32 disabled may not be aware of, or will not report abuse until statutes of
33 limitation have long run on any potential claim or remedy. Therefore, an
34 emergency is declared to exist and this act being necessary for the
35 preservation of the public peace, health, and safety shall become effective
36 on July 1, 2003.

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/s/ Hathorn