

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senator Malone**

A Bill

ACT 894 OF 1995
SENATE BILL 713

For An Act To Be Entitled

8 "AN ACT TO AMEND ARK. CODE §§ 5-28-108 AND 5-55-106 TO
9 PROVIDE FOR THE APPOINTMENT OF SPECIAL DEPUTY PROSECUTORS
10 WHO ARE AUTHORIZED TO PROSECUTE CERTAIN ABUSE AND MEDICAID
11 FRAUD CASES IN CIRCUIT COURT; AND FOR OTHER PURPOSES."

Subtitle

14 "TO AMEND ARK. CODE §§ 5-28-108 AND 5-
15 55-106 TO PROVIDE FOR THE APPOINTMENT OF
16 SPECIAL DEPUTY PROSECUTORS."

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

20 SECTION 1. Arkansas Code § 5-28-108 is amended to add:

21 "(d) An attorney employed in the Attorney General_s Office may be
22 designated a special deputy prosecutor by the prosecuting attorney having
23 criminal jurisdiction in the matter, for the purposes of prosecuting in a
24 court of competent jurisdiction actions brought under § 5-28-101, et seq., or
25 other actions for the physical or mental abuse or exploitation of residents of
26 long-term care facilities.

27 (e) As a special deputy prosecutor, such attorney shall have the power
28 to issue subpoenas and to administer oaths as provided in Ark. Code § 25-16-
29 705. The subpoena shall be substantially in the form set forth in § 25-16-
30 705(b).

31 (f) A special deputy prosecutor appointed and functioning as authorized
32 under this section shall be entitled to the same immunity granted by law to
33 the prosecuting attorney. The prosecuting attorney may revoke the appointment
34 of a special prosecutor at any time.

35 (g) Appointment as a special deputy prosecutor shall not enable such
36 attorney to receive any additional fees or salary from the state for services

1 provided pursuant to the appointment. Expenses of the special prosecutor and
2 any fees and costs incurred thereby in the prosecution of cases as herein
3 provided shall be the responsibility of the Attorney General."

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5 SECTION 2. Arkansas Code § 5-55-106 is amended to read as follows:

6 "§ 5-55-106. Investigation by Attorney General.

7 (a) The Office of Attorney General shall be the entity to which cases
8 of suspected medicaid fraud shall be referred by the Arkansas Medicaid Program
9 or its fiscal agents for the purposes of investigation, civil action, or
10 referral to the prosecuting attorney having criminal jurisdiction in the
11 matter.

12 (b) An attorney employed by the Attorney General's Office may be
13 designated a special deputy prosecutor by the prosecuting attorney having
14 criminal jurisdiction in the matter for the purposes of prosecuting in a court
15 of competent jurisdiction actions brought under § 5-55-101, et seq.

16 (c) As a special deputy prosecutor, such attorney shall have the power
17 to issue subpoenas and to administer oaths as provided in Ark. Code § 25-16-
18 705. The subpoena shall be substantially in the form set forth in § 25-16-
19 705(b).

20 (d) A special deputy prosecutor appointed and functioning as authorized
21 under this section shall be entitled to the same immunity granted by law to
22 the prosecuting attorney. The prosecuting attorney may revoke the appointment
23 of a special prosecutor at any time.

24 (e) Appointment as a special deputy prosecutor shall not enable such
25 attorney to receive any additional fees or salary from the state for services
26 provided pursuant to the appointment. Expenses of the special deputy
27 prosecutor and any fees and costs incurred thereby in the prosecution of cases
28 as herein provided shall be the responsibility of the Attorney General."

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30 SECTION 3. All provisions of this act of a general and permanent nature
31 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
32 Revision Commission shall incorporate the same in the Code.

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34 SECTION 4. If any provision of this act or the application thereof to
35 any person or circumstance is held invalid, such invalidity shall not affect

1 other provisions or applications of the act which can be given effect without
2 the invalid provision or application, and to this end the provisions of this
3 act are declared to be severable.

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5 SECTION 5. All laws and parts of laws in conflict with this act are
6 hereby repealed.

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9 APPROVED: 4-4-95

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