

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

# A Bill

ACT 957 OF 1997  
HOUSE BILL 1786

4  
5 By: Representatives Lynn and Courtway  
6 By: Senators Hunter and Bell

## For An Act To Be Entitled

7  
8  
9  
10 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 20-76-436 TO  
11 LIMIT RECOVERY BY THE DEPARTMENT OF HUMAN SERVICES AGAINST  
12 ESTATES OF DECEASED RECIPIENTS OF BENEFITS WHERE THERE IS  
13 AN UNDUE HARDSHIP AND TO REQUIRE THAT APPLICANTS FOR  
14 BENEFITS BE NOTIFIED IN WRITING THAT THE DEPARTMENT MAY  
15 MAKE A CLAIM AGAINST THEIR ESTATES; AND FOR OTHER  
16 PURPOSES."

## Subtitle

17  
18  
19 "TO LIMIT RECOVERY BY DHS AGAINST  
20 ESTATES OF BENEFIT RECIPIENTS WHERE  
21 THERE IS AN UNDUE HARDSHIP."

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

24  
25 SECTION 1. Arkansas Code Annotated § 20-76-436 is amended to read as  
26 follows:

27 "20-76-436. Recovery of benefits from recipients' estates.

28 (a) Federal or state benefits in cash or in kind, including, but not  
29 limited to, Medicaid, Aid to Families with Dependent Children, Temporary  
30 Assistance for Needy Families, and food stamps distributed or paid by the  
31 Department of Human Services, as well as charges levied by the Department of  
32 Human Services for services rendered, shall, upon the death of the recipient,  
33 constitute a debt to be paid. The Department of Human Services may make a  
34 claim against the estate of a deceased recipient for the amount of any  
35 benefits distributed or paid, or charges levied, by the Department of Human  
36 Services.

1           (b) The Department of Human Services shall not seek recovery against  
 2 the estate of a deceased recipient for the amount of any benefits distributed  
 3 or paid, or charges levied, if the recovery is not cost effective or if the  
 4 recovery works an undue hardship on the heirs or devisees of the decedent's  
 5 estate. In determining the existence of an undue hardship, the Department of  
 6 Human Services shall consider factors including, but not limited to, the  
 7 following:

8                   (1) the estate asset subject to recovery is the sole income-  
 9 producing asset of the beneficiaries of the estate;

10                   (2) when, without receipt of the proceeds of the estate, a  
 11 beneficiary would become eligible for federal or state benefits;

12                   (3) when allowing a beneficiary to receive the inheritance from  
 13 the estate would enable a beneficiary to discontinue eligibility for federal  
 14 or state benefits;

15                   (4) the estate asset subject to recovery is a home with a value  
 16 of twenty-five thousand dollars (\$25,000) or less as determined by the most  
 17 recent county assessment; or

18                   (5) there are other compelling circumstances.

19           (c) To the extent that there is any conflict between the preceding  
 20 criteria and the standards that may be specified by the Secretary of the  
 21 Department of Health and Human Services, the federal standards shall prevail.

22           (d) Applicants for federal or state benefits shall be notified in  
 23 writing, in prominent type on the application form, that the Department of  
 24 Human Services may make a claim against their estate."

25

26           SECTION 2. All provisions of this act of a general and permanent nature  
 27 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
 28 Revision Commission shall incorporate the same in the Code.

29

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

35

36           SECTION 4. All laws and parts of laws in conflict with this act are

1 hereby repealed.

2

3

APPROVED: 3-31-97

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35