

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021

# A Bill

HOUSE BILL 1622

4  
5 By: Representative M. Gray  
6 By: Senator Flippo

## For An Act To Be Entitled

9 AN ACT CONCERNING THE AUTHORITY OF THE ATTORNEY  
10 GENERAL TO COMPLY WITH FEDERAL REGULATIONS; AND FOR  
11 OTHER PURPOSES.

## Subtitle

15 CONCERNING THE AUTHORITY OF THE ATTORNEY  
16 GENERAL TO COMPLY WITH FEDERAL  
17 REGULATIONS.

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

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22 SECTION 1. Arkansas Code § 5-28-101, concerning definitions used in  
23 regard to abuse of adults, is amended to add additional subdivisions to read  
24 as follows:

25 (16) "Board and care facility" means a residential setting  
26 including without limitation a long-term care facility or other facility that  
27 receives payment, regardless of whether the payment is made under Title XIX  
28 of the Social Security Act, 42 U.S.C. § 1396 et seq., from or on behalf of  
29 two (2) or more unrelated adults who reside in the residential setting, and  
30 for whom one (1) or both of the following is provided:

31 (A) Nursing care services provided by, or under the  
32 supervision of, a registered nurse, licensed practical nurse, or licensed  
33 nursing assistant; or

34 (B) A substantial amount of personal care services; and

35 (17) "Substantial amount of personal care services" means  
36 services provided that assist the adults who reside at the facility with the



1 activities of daily living in any amount greater than eighty percent (80%) of  
2 the maximum hours authorized by law, including assistance in personal  
3 hygiene, dressing, bathing, eating, toileting, ambulation, transfer,  
4 positioning, self-medication, body care, travel to medical services,  
5 essential shopping, meal preparation, laundry, and housework.

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7 SECTION 2. Arkansas Code § 5-28-107(a), concerning investigations by  
8 the Attorney General and the Department of Human Services, is amended to read  
9 as follows:

10 (a) The office of the Attorney General has concurrent jurisdiction  
11 with local law enforcement agencies and the Department of Human Services to  
12 investigate cases of suspected adult maltreatment of an adult endangered  
13 person or an adult impaired person residing in a board and care facility, an  
14 adult endangered person or an adult impaired person who is residing in a  
15 long-term care facility certified under Title XIX of the Social Security Act,  
16 42 U.S.C. § 1396 et seq., or a person or adult impaired person who is  
17 receiving medical assistance under Title XIX of the Social Security Act, 42  
18 U.S.C. § 1396 et seq., as part of the Arkansas Medicaid Program as defined in  
19 § 5-55-102 in a noninstitutional or other setting.

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21 SECTION 3. Arkansas Code § 12-12-1703, concerning definitions used in  
22 regard to the Adult and Long-Term Care Facility Resident Maltreatment Act, is  
23 amended to add a new subdivision to read as follows:

24 (23) "Board and care facility" means the same as defined in § 5-  
25 28-101.

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27 SECTION 4. Arkansas Code § 12-12-1706(a), concerning civil penalties,  
28 is amended to read as follows:

29 (a)(1) ~~The State of Arkansas and the~~ Attorney General may institute a  
30 civil action on behalf of the State of Arkansas against any long-term care  
31 facility caregiver or board and care facility caregiver necessary to enforce  
32 any provision of this subchapter.

33 (2) Notwithstanding any criminal penalties assessed, any  
34 caregiver against whom any civil judgment is entered as the result of a civil  
35 action brought by the State of Arkansas through the Attorney General on a  
36 complaint alleging that caregiver to have abused, neglected, or exploited an

1 endangered person or an impaired person in a board and care facility or in a  
 2 long-term care facility certified under Title XIX of the Social Security Act,  
 3 42 U.S.C. § 1396 et seq., ~~as it existed on January 1, 2005,~~ shall be subject  
 4 to pay a civil penalty:

5 (A) Not to exceed ten thousand dollars (\$10,000) for each  
 6 violation judicially found to have occurred; or

7 (B) Not to exceed fifty thousand dollars (\$50,000) for the  
 8 death of a long-term care facility resident that results from a single  
 9 violation.

10 (3)(A) The Attorney General shall not be precluded from  
 11 recovering civil penalties under subdivision (a)(2)(A) of this section for  
 12 the death of a person that results from multiple violations.

13 (B) However, the Attorney General may not recover civil  
 14 penalties under both subdivisions (a)(2)(A) and (B) of this section.

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