

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 519

5 By: Senator Irvin
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE VULNERABLE PERSON PROTECTION
9 ACT; TO EXPAND PROTECTION OF CERTAIN TYPES OF
10 VULNERABLE PERSONS IN THIS STATE BY ESTABLISHING
11 ADDITIONAL CRIMINAL PENALTIES; AND FOR OTHER
12 PURPOSES.
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Subtitle

15 TO CREATE THE VULNERABLE PERSON
16 PROTECTION ACT; AND TO EXPAND PROTECTION
17 OF CERTAIN TYPES OF VULNERABLE PERSONS IN
18 THIS STATE BY ESTABLISHING ADDITIONAL
19 CRIMINAL PENALTIES.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code Title 5, is amended to add an additional
26 chapter to read as follows:

Chapter 29 – Vulnerable Persons

Subchapter 1 – [Reserved]

Subchapter 2 – Vulnerable Person Protection Act

5-29-201. Title.

31 This subchapter shall be known and may cited as the "Vulnerable Person
32 Protection Act."
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1 5-29-202. Definitions.

2 As used in this subchapter:

3 (1) "Abuses" means any act or omission that causes or is likely
4 to cause the following to a vulnerable person:

5 (A) Mental anguish, physical pain, or physical injury;

6 (B) Unlawful sexual contact or sexual contact induced by
7 fear of retribution or hardship;

8 (C) The use of a physical restraint, chemical restraint,
9 medication, or isolation as punishment, for convenience of inpatient facility
10 staff, or in conflict with a physician's order or treatment plan;

11 (D) Any threatening or menacing conduct toward a
12 vulnerable person that results or might reasonably be expected to result in
13 fear or emotional mental distress; or

14 (E) Withholding healthcare goods or services ordered or
15 prescribed by a physician or other healthcare provider with authority to
16 direct care or as required by the vulnerable person's current treatment plan;

17 (2) "Assets" means any type of personal property or real
18 property, including without limitation funds;

19 (3) "Caregiver" means a person who is not a healthcare provider
20 but has assumed the responsibility for the protection, care, or custody of a
21 vulnerable person including without limitation a non-healthcare employee of a
22 healthcare provider, a volunteer, a person with a power of attorney for the
23 person, or a guardian;

24 (4) "Exploits" means an act or omission involving:

25 (A) The unlawful use or management of a vulnerable
26 person's assets or the unlawful use of a vulnerable person's power of
27 attorney or guardianship for the profit or advantage of the actor or another
28 person; or

29 (B) The misappropriation of the assets of a vulnerable
30 person;

31 (5)(A) "Healthcare provider" means a person who receives pay or
32 other compensation to deliver or arrange for the delivery of healthcare goods
33 or services.

34 (B) "Healthcare provider" includes without limitation:

35 (i) A physician;

36 (ii) A dentist;

- 1 (iii) A physician assistant;
2 (iv) A certified nurse practitioner;
3 (v) A nurse;
4 (vi) A certified nurse midwife;
5 (vii) A clinical social worker;
6 (viii) A licensed therapist;
7 (ix) A licensed counselor;
8 (x) A certified nursing assistant;
9 (xi) A direct care staff of an inpatient facility;
10 (xii) A home healthcare worker;
11 (xiii) A durable medical supply provider; or
12 (xi) Any enrolled Medicaid or Medicare provider;

13 (6)(A) "Inpatient facility" means any medical, treatment, or
14 rehabilitation facility or part of a medical, treatment, or rehabilitation
15 facility that provides healthcare services or treatment on a twenty-four-hour
16 basis, other than a facility operated by the Department of Corrections.

17 (B) "Inpatient facility" does not include outpatient
18 medical, treatment, or rehabilitation facilities, outpatient clinics,
19 doctor's offices, or other medical, treatment, or rehabilitation facilities
20 where patients do not depend on the medical, treatment, or rehabilitation
21 facility for twenty-four (24) hour care;

22 (7)(A) "Misappropriation" means the unlawful temporary or
23 permanent use of a vulnerable person's assets.

24 (B) "Misappropriation" includes without limitation the use
25 of the assets for the actor's own benefit, the benefit of a person other than
26 the vulnerable person, or in any way that is harmful to the vulnerable
27 person;

28 (8) "Neglects" means an act or omission by a healthcare provider
29 or caregiver that:

30 (A) Fails to provide to a vulnerable person or deprives a
31 vulnerable person of treatment, rehabilitation, care, food, clothing,
32 shelter, supervision, or medical services as required by a care plan,
33 prescription label or instructions, or provider contract;

34 (B) Fails to report a health problem or a change in a
35 health problem or a change in a health condition of a vulnerable person to
36 the appropriate healthcare provider;

1 (C) Fails to carry out a prescribed treatment plan of a
2 vulnerable person ; or

3 (D) Fails to provide to a vulnerable person or deprives a
4 vulnerable person of a good or service necessary to avoid physical injury,
5 mental anguish, or mental illness as defined in rules promulgated by a
6 regulatory agency that is required to certify an inpatient facility to
7 receive Medicaid funding;

8 (9) "Sexual contact" means the same as defined in § 5-14-101;
9 and

10 (10) "Vulnerable person" means any person who is:

11 (A) Sixty-nine (69) years of age or older; or

12 (B) In an inpatient facility receiving twenty-four (24)
13 hour care.

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15 5-29-203. Abuse of a vulnerable person.

16 (a) A person commits abuse of a vulnerable person if, being a
17 healthcare provider or caregiver, he or she purposely abuses a vulnerable
18 person under his or her care or to whom he or she has access due to his or
19 her position as a healthcare provider or caregiver.

20 (b) Abuse of a vulnerable person is a:

21 (1) Class B felony if the abuse causes serious physical injury
22 or a substantial risk of death to the vulnerable person;

23 (2) Class D felony if the abuse causes physical injury to the
24 vulnerable person; or

25 (3) Class B misdemeanor if otherwise committed.

26 (c) It is an affirmative defense to a prosecution under this section
27 for the use of a physical restraint or chemical restraint if the physical
28 restraint or chemical restraint was necessary for the immediate safety of the
29 vulnerable person, another patient, or staff in the inpatient facility.

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31 5-29-204. Neglect of a vulnerable person.

32 (a) A person commits neglect of a vulnerable person if, being a
33 healthcare provider or caregiver, he or she purposely neglects a vulnerable
34 person under his or her care or to whom he or she has access due to his or
35 her position as a healthcare provider or caregiver.

36 (b) Neglect of a vulnerable person is a:

