

ARKANSAS SENATE
92nd General Assembly - Regular Session, 2019
Amendment Form

Subtitle of House Bill No. 1651

TO AMEND AND UPDATE THE LAWS REGARDING TREATMENT FOR INDIVIDUALS WITH
INTELLECTUAL AND DEVELOPMENTAL DISABILITIES; AND TO ENSURE RESPECTFUL LANGUAGE
IS USED WITHIN THE ARKANSAS CODE.

Amendment No. 1 to House Bill 1651

Amend House Bill No. 1651 as originally introduced:

Page 1, line 31, delete "(b) "Disabled person" means" and substitute "(b)
~~"Disabled person~~ Person with a disability" means"

AND

Page 2, delete line 16, and substitute the following:

"SECTION 2. Arkansas Code §§ 4-88-202 through 4-88-207 are amended to
read as follows:

4-88-202. Civil penalty – Disposition of funds.

(a) If any person is found to have violated any provision of this
chapter, including unlawful practices related to charitable solicitations,
and the violation is committed against ~~elder or disabled persons~~ an elder
person or a person with a disability, in addition to any civil penalty
otherwise set forth or imposed, the court may impose an additional civil
penalty not to exceed ten thousand dollars (\$10,000) for each violation.

(b) The civil penalties imposed pursuant to subsection (a) of this
section shall be deposited with the Treasurer of State and placed into the
Elder Person and ~~Disabled~~ Person with a Disability Victims Fund, a special
fund created in the State Treasury and administered by the Attorney General
for the investigation and prosecution of deceptive acts against ~~elder and
disabled persons~~ an elder person or a person with a disability and for
consumer education initiatives.

4-88-203. Determination of civil penalty.

In determining whether to impose an enhanced civil penalty under this
subchapter and the amount thereof, the court shall consider the extent to
which one (1) or more of the following factors are present:

(1) Whether the defendant's conduct was in disregard of the
rights of the ~~elder or disabled person~~ elder person or person with a
disability;



(2) Whether the defendant knew or should have known that the defendant's conduct was directed to an ~~elder person or disabled person~~ elder person or person with a disability;

(3) Whether the ~~elder or disabled person~~ elder person or person with a disability was more vulnerable to the defendant's conduct because of age, poor health, infirmity, impaired understanding, restricted mobility, or disability than other persons and whether the ~~elder or disabled person~~ elder person or person with a disability actually suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct;

(4) Whether the defendant's conduct caused an ~~elder or disabled person~~ elder person or person with a disability to suffer any of the following:

(A) Mental or emotional anguish;

(B) Loss of or encumbrance upon a primary residence of the ~~elder or disabled person~~ elder person or person with a disability;

(C) Loss of or encumbrance upon the elder or disabled person's principal employment or principal source of income;

(D) Loss of funds received under a pension or retirement plan or a government benefits program;

(E) Loss of property set aside for retirement or for personal or family care and maintenance; or

(F) Loss of assets essential to the health and welfare of the ~~elder or disabled person~~ elder person or person with a disability; or

(5) Any other factors the court deems appropriate.

4-88-204. Cause of action.

An ~~elder or disabled person~~ elder person or person with a disability who suffers damage or injury as a result of an offense or violation described in this chapter has a cause of action to recover actual damages, punitive damages, if appropriate, and reasonable attorney's fees. Restitution ordered pursuant to this section has priority over a civil penalty imposed pursuant to this subchapter.

4-88-205. Education initiatives.

The Attorney General shall, pursuant to the funds allocated in this subchapter, develop and implement statewide educational initiatives to inform ~~elder persons and disabled persons~~ an elder person and a person with a disability, law enforcement agencies, the judicial system, social services professionals, and the general public as to the prevalence and prevention of consumer crimes against ~~elder and disabled persons~~ an elder person or person with a disability, the provisions of this chapter, the penalties for violations of this chapter, and the remedies available for victims of violations.

4-88-206. Referrals for abuse, neglect, and exploitation.

The Attorney General shall establish and maintain referral procedures with the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services in order to provide any necessary intervention and assistance to ~~elder or disabled persons~~ an elder person or person with a disability who may have been victimized by violations of this chapter.

4-88-207. Elder Person and ~~Disabled Person with a Disability~~ Victims Fund created.

The "Elder Person and ~~Disabled Person with a Disability~~ Victims Fund" is hereby created and established on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State and shall consist of those special funds as may be provided by law. This fund shall be used for the investigation and prosecution of deceptive acts against ~~elder and disabled persons~~ an elder person or person with a disability and for consumer education initiatives directed toward ~~elder and disabled persons~~ an elder person or person with a disability, law enforcement officers, the judicial system, social services professionals, and the general public on the provisions of this chapter and related statutes.

SECTION 3. Arkansas Code § 5-4-618 is amended to read as follows:"

AND

Page 18, line 28, delete "who, because of their ~~problem~~ maladaptive behavior," and substitute the following "who, because of their problem,"

AND

Appropriately renumber the sections of the bill

The Amendment was read the first time, rules suspended and read the second time and _____
By: Senator Irvin
JMB/JMB - 03-20-2019 13:58:55
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Secretary