

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1345

By: Representative Wagner

For An Act To Be Entitled

"AN ACT TO AMEND TITLE 20, CHAPTER 10 OF THE ARKANSAS CODE OF 1987 TO ESTABLISH PENALTIES FOR OFFENSIVE CONTACT WITH RESIDENTS OF LONG TERM CARE FACILITIES; AND FOR OTHER PURPOSES."

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

SECTION 1. Title 20, Chapter 10 of the Arkansas Code of 1987 is hereby amended by adding a new subchapter to read as follows:

"Subchapter 11. Resident Abuse - Classifications, Penalties.

20-10-1101. Definitions. As used in this subchapter, unless the context otherwise requires:

(1) 'offensive physical contact' or 'offensive touching' means physical contact causing harm, embarrassment or degradation to, or influencing or coercing unnecessary control over a resident's existing physical or mental condition.

(2) 'offensive language' means language influencing or coercing unnecessary control over or causing embarrassment or degradation to the character of a resident of a long term care facility. Such act need not arouse immediate and violent anger from the resident.

(3) 'offensive gestures' means any gesture influencing or coercing unnecessary control over, or causing embarrassment or degradation to the character of a resident of a long term care facility. Such act need not arouse immediate and violent anger from the resident."

20-10-1102. (a) Any owner, administrator, or their agents or employees, of any long term care facility who strikes, shoves, kicks, or offensively touches a resident of a long term care facility, or subjects the resident to offensive physical contact or attempts to do so shall be fined \$1,000.

20-10-1103. Any owner, administrator, or their agents or employees, of any long term care facility who directs offensive language or gestures to any resident shall be fined \$500.

20-10-1104. (1) If any owner, administrator, or their agents or employees have violated this subchapter within twelve (12) months prior to the violation in question, all owners shall also be guilty of violating this subchapter and each owner shall be fined an amount equal to that of the offending party.

(2) In the event of a second violation of this subchapter within the prior twelve (12) month period, there shall be a presumption, rebuttable by the owner, that when resident abuse pursuant to this subchapter occurs, all owners received notice of the abuse and did not take all reasonable safeguards to assure the safety of the residents from future similar incidents by the same owner, administrator, agent or employee.

(3) For the purposes of sections (c)(1) and (c)(2) of this subchapter, ownership liability shall be directed to those persons owning the facility at the time of the second offense, regardless of their ownership status at the time of the prior offense.

(d) All penalty monies and interest received from the imposition of the civil penalties levied under this subchapter shall be paid into the Long Term Care Trust Fund established pursuant to Ark. Code Ann. 20-10-209."

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

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

