

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

180

By: Senator Bearden

For An Act To Be Entitled

"AN ACT TO AMEND TITLE 5, CHAPTER 28, SUBCHAPTER 1 OF THE ARKANSAS CODE OF 1987 TO CREATE A REBUTTABLE PRESUMPTION AGAINST AN OFFICIAL OF A LONG TERM CARE FACILITY; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code 5-28-101 is hereby amended by adding the following new subsections to read as follows:

"(7) 'Official' means the facility's owner or owners, or any directors, officers, trustees, managing or general partners having a five (5) percent or greater beneficial interest in the facility.

(8) 'Facility' or 'long term care facility' means a nursing home, residential care facility or any other facility which provides long-term medical or personal care. For the purposes of this subchapter, the term 'long term care facility' shall also include adult day care facilities. Otherwise, the definition shall be in accordance with Ark. Code 20-10-101."

SECTION 2. Title 5, Chapter 28, Subchapter 1 of the Arkansas Code of 1987 is hereby amended by adding a new section to read as follows:

"5-28-107. There shall be a presumption, rebuttable by any official as herein defined, that when a facility, official, or agent thereof has been convicted under this chapter, and that facility, official, or agent has also been convicted under this chapter within five (5) years prior to the proceeding in question, the official acted:

- (1) in bad faith;
- (2) contrary to the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (3) not in a manner the official reasonably believes to be in the best

interests of the facility."

SECTION 3. 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 4. All laws and parts of laws in conflict with this Act are hereby repealed.