

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995  
4 By: Senator Malone

# A Bill

SENATE BILL 713

## For An Act To Be Entitled

"AN ACT TO AMEND ARK. CODE §§ 5-28-108 AND 5-55-106 TO  
PROVIDE FOR THE APPOINTMENT OF SPECIAL DEPUTY PROSECUTORS  
WHO ARE AUTHORIZED TO PROSECUTE CERTAIN ABUSE AND MEDICAID  
FRAUD CASES IN CIRCUIT COURT; AND FOR OTHER PURPOSES."

## Subtitle

"TO AMEND ARK. CODE §§ 5-28-108 AND 5-  
55-106 TO PROVIDE FOR THE APPOINTMENT OF  
SPECIAL DEPUTY PROSECUTORS."

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

SECTION 1. Arkansas Code § 5-28-108 is amended to add:

"(d) An attorney employed in the Attorney General's Office may be designated a special deputy prosecutor by the prosecuting attorney having criminal jurisdiction in the matter, for the purposes of prosecuting in a court of competent jurisdiction actions brought under § 5-28-101, et seq., or other actions for the physical or mental abuse or exploitation of residents of long-term care facilities.

(e) As a special deputy prosecutor, such attorney shall have the power to issue subpoenas and to administer oaths as provided in Ark. Code § 25-16-705. The subpoena shall be substantially in the form set forth in § 25-16-705(b).

(f) A special deputy prosecutor appointed and functioning as authorized under this section shall be entitled to the same immunity granted by law to the prosecuting attorney. The prosecuting attorney may revoke the appointment of a special prosecutor at any time.

(g) Appointment as a special deputy prosecutor shall not enable such

1 attorney to receive any additional fees or salary from the state for services  
2 provided pursuant to the appointment. Expenses of the special prosecutor and  
3 any fees and costs incurred thereby in the prosecution of cases as herein  
4 provided shall be the responsibility of the Attorney General."

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6 SECTION 2. Arkansas Code § 5-55-106 is amended to read as follows:

7 "§ 5-55-106. Investigation by Attorney General.

8 (a) The Office of Attorney General shall be the entity to which cases  
9 of suspected medicaid fraud shall be referred by the Arkansas Medicaid  
10 Program or its fiscal agents for the purposes of investigation, civil action,  
11 or referral to the prosecuting attorney having criminal jurisdiction in the  
12 matter.

13 (b) An attorney employed by the Attorney General's Office may be  
14 designated a special deputy prosecutor by the prosecuting attorney having  
15 criminal jurisdiction in the matter for the purposes of prosecuting in a  
16 court of competent jurisdiction actions brought under § 5-55-101, et seq.

17 (c) As a special deputy prosecutor, such attorney shall have the power  
18 to issue subpoenas and to administer oaths as provided in Ark. Code § 25-16-  
19 705. The subpoena shall be substantially in the form set forth in § 25-16-  
20 705(b).

21 (d) A special deputy prosecutor appointed and functioning as  
22 authorized under this section shall be entitled to the same immunity granted  
23 by law to the prosecuting attorney. The prosecuting attorney may revoke the  
24 appointment of a special prosecutor at any time.

25 (e) Appointment as a special deputy prosecutor shall not enable such  
26 attorney to receive any additional fees or salary from the state for services  
27 provided pursuant to the appointment. Expenses of the special deputy  
28 prosecutor and any fees and costs incurred thereby in the prosecution of  
29 cases as herein provided shall be the responsibility of the Attorney  
30 General."

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32 SECTION 3. All provisions of this act of a general and permanent  
33 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
34 Code Revision Commission shall incorporate the same in the Code.

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1           SECTION 4. If any provision of this act or the application thereof to  
2 any person or circumstance is held invalid, such invalidity shall not affect  
3 other provisions or applications of the act which can be given effect without  
4 the invalid provision or application, and to this end the provisions of this  
5 act are declared to be severable.

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7           SECTION 5. All laws and parts of laws in conflict with this act are  
8 hereby repealed.

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