

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

As Engrossed: H4/7/99  
**A Bill**

HOUSE BILL 1418

5 By: Representatives Lynn, Courtway  
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7

8 **For An Act To Be Entitled**

9 " AN ACT TO AMEND ARKANSAS CODE 20-76-436 TO CLARIFY  
10 WHICH ESTATE ASSETS ARE SUBJECT TO RECOVERY; AND. "

11  
12 **Subtitle**

13 "TO AMEND ARKANSAS CODE 20-76-436 TO  
14 CLARIFY WHICH ESTATE ASSETS ARE SUBJECT  
15 TO RECOVERY. "  
16  
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code 20-76-436 is amended to read as follows:

21 "20-76-436. Recovery of benefits from recipients' estates.

22 (a) Federal or state benefits in cash or in kind, including, but not  
23 limited to, Medicaid, Aid to Families with Dependent Children, Transitional  
24 Employment Assistance, Temporary Assistance for Needy Families, and food  
25 stamps distributed or paid by the Department of Human Services, as well as  
26 charges levied by the Department of Human Services for services rendered,  
27 shall, upon the death of the recipient, constitute a debt to be paid. The  
28 Department of Human Services may make a claim against the estate of a deceased  
29 recipient for the amount of any benefits distributed or paid, or charges  
30 levied, by the Department of Human Services.

31 (b) The Department of Human Services shall not seek recovery against  
32 the estate of a deceased recipient for the amount of any benefits distributed  
33 or paid, or charges levied, if the recovery is not cost effective or if the  
34 recovery works an undue hardship on the heirs or devisees of the decedent's  
35 estate. In determining the existence of an undue hardship, the Department of  
36 Human Services shall consider factors including, but not limited to, the

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1 following:

2 (1) The estate asset subject to recovery is the sole income-  
3 producing asset of the beneficiaries of the estate;

4 (2) When, without receipt of the proceeds of the estate, a  
5 beneficiary would become eligible for federal or state benefits;

6 (3) When allowing a beneficiary to receive the inheritance from  
7 the estate would enable a beneficiary to discontinue eligibility for federal  
8 or state benefits; or

9 ~~(4) The estate asset subject to recovery is a home with a value~~  
10 ~~of twenty-five thousand dollars (\$25,000) or less as determined by the most~~  
11 ~~recent county assessment; or~~

12 ~~(5)~~(4) There are other compelling circumstances.

13 (c) Undue hardship shall exist if the estate subject to recovery is a  
14 home with a value of twenty-five thousand dollars (\$25,000) or less.

15 ~~(e)~~(d) To the extent that there is any conflict between the preceding  
16 criteria and the standards that may be specified by the Secretary of the  
17 Department of Health and Human Services, the federal standards shall prevail.

18 ~~(d)~~(e) Applicants for federal or state benefits shall be notified in  
19 writing, in prominent type on the application form, that the Department of  
20 Human Services may make a claim against their estate.

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

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

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33 SECTION 4. All laws and parts of laws in conflict with this act are  
34 hereby repealed.

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/s/ Lynn, et al

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