

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

HOUSE BILL 1812

5 By: Representative Leding
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For An Act To Be Entitled

8 AN ACT TO CLARIFY THE ADULT MALTREATMENT CUSTODY ACT;
9 TO ADD DEFINITIONS AND DESCRIBE THE PROCESS FOR LESS-
10 THAN-CUSTODY ORDERS; AND FOR OTHER PURPOSES.
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Subtitle

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13 TO CLARIFY THE ADULT MALTREATMENT CUSTODY
14 ACT; AND TO ADD DEFINITIONS AND DESCRIBE
15 THE PROCESS FOR LESS-THAN-CUSTODY ORDERS.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 9-20-103(10) and (11), concerning
22 definitions for the Adult Maltreatment Custody Act, are amended to read as
23 follows:

24 (10)(A) "Impaired adult" means a person eighteen (18) years of
25 age or older who, as a result of mental or physical impairment, is unable to
26 protect himself or herself from abuse, sexual abuse, neglect, or
27 exploitation.

28 (B) For purposes of this chapter, residents of a long-term
29 care facility are presumed to be impaired persons.

30 (C) For purposes of this chapter, a person with a mental
31 impairment does not include a person who is in need of acute psychiatric
32 treatment, chronic mental health treatment, alcohol or drug abuse treatment,
33 or casework supervision by mental health professionals~~†~~.

34 (D) For purposes of this chapter, an adult who has a
35 representative payee appointed for that adult by the Social Security
36 Administration or other authorized agency is presumed to be an impaired adult



1 in relation to adult maltreatment through financial exploitation;

2 (11)(A) “Less-than-custody order” means any an emergency order
 3 issued by a circuit court of the State of Arkansas on petition or motion of
 4 the department that makes specific orders for the protection of an endangered
 5 or impaired adult but does not give the department custody over an endangered
 6 or impaired adult.

7 (B) A less-than-custody order may specify appropriate
 8 safeguards, including without limitation:

9 (i) Prohibiting a legal custodian or guardian of an
 10 endangered or impaired adult from having contact with the endangered or
 11 impaired adult;

12 (ii) Prohibiting a legal custodian, guardian, or
 13 holder of a power of attorney of an endangered or impaired adult from
 14 withdrawing funds from one (1) or more accounts of the endangered or impaired
 15 adult or otherwise accessing the assets of the endangered or impaired adult;
 16 or

17 (iii) Requiring the endangered or impaired adult to
 18 accept services as directed by the court;

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 20 SECTION 2. Arkansas Code § 9-20-115 is amended to read as follows:

21 9-20-115. Emergency ~~order of custody~~ orders.

22 (a)(1) If there is probable cause to believe that immediate emergency
 23 custody is necessary to protect a maltreated adult, the probate division of
 24 circuit court shall issue an ex parte order for emergency custody to protect
 25 the maltreated adult.

26 (2) If there is probable cause to believe that immediate
 27 emergency action is necessary to protect an endangered or impaired adult from
 28 adult maltreatment, the probate division of circuit court may issue an ex
 29 parte less-than-custody order to protect the adult in lieu of an ex parte
 30 order for emergency custody.

31 (b) The Department of Human Services shall obtain an emergency ex
 32 parte order of custody on a maltreated adult within seventy-two (72) hours of
 33 taking the maltreated adult into emergency custody unless the expiration of
 34 the seventy-two (72) hours falls on a weekend or holiday, in which case
 35 emergency custody may be extended through the next business day following the
 36 weekend or holiday.

1 (c) The emergency order shall include notice to the maltreated adult
2 and the person from whom physical custody of the respondent was removed of
3 the right to a hearing and that a hearing will be held within five (5)
4 business days of the issuance of the ex parte order.

5 ~~(d) If there is probable cause to believe that immediate action is~~
6 ~~necessary to protect the health, safety, or welfare of an endangered or~~
7 ~~impaired adult, the probate division of circuit court may issue an ex parte~~
8 ~~order necessary to protect the adult.~~

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