

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

SENATE BILL 519

5 By: Senator Irvin  
6

## For An Act To Be Entitled

8 AN ACT TO CREATE THE VULNERABLE PERSON PROTECTION  
9 ACT; TO EXPAND PROTECTION OF CERTAIN TYPES OF  
10 VULNERABLE PERSONS IN THIS STATE BY ESTABLISHING  
11 ADDITIONAL CRIMINAL PENALTIES; AND FOR OTHER  
12 PURPOSES.  
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## Subtitle

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16 TO CREATE THE VULNERABLE PERSON  
17 PROTECTION ACT; AND TO EXPAND PROTECTION  
18 OF CERTAIN TYPES OF VULNERABLE PERSONS IN  
19 THIS STATE BY ESTABLISHING ADDITIONAL  
20 CRIMINAL PENALTIES.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code Title 5, is amended to add an additional  
26 chapter to read as follows:

### Chapter 29 – Vulnerable Persons

#### Subchapter 1 – [Reserved]

#### Subchapter 2 – Vulnerable Person Protection Act

##### 5-29-201. Title.

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34 This subchapter shall be known and may cited as the "Vulnerable Person  
35 Protection Act."  
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1 5-29-202. Definitions.

2 As used in this subchapter:

3 (1) "Abuses" means any act or omission that causes or is likely  
4 to cause the following to a vulnerable person:

5 (A) Mental anguish, physical pain, or physical injury;

6 (B) Unlawful sexual contact or sexual contact induced by  
7 fear of retribution or hardship;

8 (C) The use of a physical restraint, chemical restraint,  
9 medication, or isolation as punishment, for convenience of inpatient facility  
10 staff, or in conflict with a physician's order or treatment plan;

11 (D) Any threatening or menacing conduct toward a  
12 vulnerable person that results or might reasonably be expected to result in  
13 fear or emotional mental distress; or

14 (E) Withholding healthcare goods or services ordered or  
15 prescribed by a physician or other healthcare provider with authority to  
16 direct care or as required by the vulnerable person's current treatment plan;

17 (2) "Assets" means any type of personal property or real  
18 property, including without limitation funds;

19 (3) "Caregiver" means a person who is not a healthcare provider  
20 but has assumed the responsibility for the protection, care, or custody of a  
21 vulnerable person including without limitation a non-healthcare employee of a  
22 healthcare provider, a volunteer, a person with a power of attorney for the  
23 person, or a guardian;

24 (4) "Exploits" means an act or omission involving:

25 (A) The unlawful use or management of a vulnerable  
26 person's assets or the unlawful use of a vulnerable person's power of  
27 attorney or guardianship for the profit or advantage of the actor or another  
28 person; or

29 (B) The misappropriation of the assets of a vulnerable  
30 person;

31 (5)(A) "Healthcare provider" means a person who receives pay or  
32 other compensation to deliver or arrange for the delivery of healthcare goods  
33 or services.

34 (B) "Healthcare provider" includes without limitation:

35 (i) A physician;

36 (ii) A dentist;

- 1                   (iii) A physician assistant;
- 2                   (iv) A certified nurse practitioner;
- 3                   (v) A nurse;
- 4                   (vi) A certified nurse midwife;
- 5                   (vii) A clinical social worker;
- 6                   (viii) A licensed therapist;
- 7                   (ix) A licensed counselor;
- 8                   (x) A certified nursing assistant;
- 9                   (xi) A direct care staff of an inpatient facility;
- 10                  (xii) A home healthcare worker;
- 11                  (xiii) A durable medical supply provider; or
- 12                  (xi) Any enrolled Medicaid or Medicare provider;

13                   (6)(A) "Inpatient facility" means any medical, treatment, or  
 14 rehabilitation facility or part of a medical, treatment, or rehabilitation  
 15 facility that provides healthcare services or treatment on a twenty-four-hour  
 16 basis, other than a facility operated by the Department of Corrections.

17                   (B) "Inpatient facility" does not include outpatient  
 18 medical, treatment, or rehabilitation facilities, outpatient clinics,  
 19 doctor's offices, or other medical, treatment, or rehabilitation facilities  
 20 where patients do not depend on the medical, treatment, or rehabilitation  
 21 facility for twenty-four (24) hour care;

22                   (7)(A) "Misappropriation" means the unlawful temporary or  
 23 permanent use of a vulnerable person's assets.

24                   (B) "Misappropriation" includes without limitation the use  
 25 of the assets for the actor's own benefit, the benefit of a person other than  
 26 the vulnerable person, or in any way that is harmful to the vulnerable  
 27 person;

28                   (8) "Neglects" means an act or omission by a healthcare provider  
 29 or caregiver that:

30                   (A) Fails to provide to a vulnerable person or deprives a  
 31 vulnerable person of treatment, rehabilitation, care, food, clothing,  
 32 shelter, supervision, or medical services as required by a care plan,  
 33 prescription label or instructions, or provider contract;

34                   (B) Fails to report a health problem or a change in a  
 35 health problem or a change in a health condition of a vulnerable person to  
 36 the appropriate healthcare provider;

1                   (C) Fails to carry out a prescribed treatment plan of a  
2 vulnerable person ; or

3                   (D) Fails to provide to a vulnerable person or deprives a  
4 vulnerable person of a good or service necessary to avoid physical injury,  
5 mental anguish, or mental illness as defined in rules promulgated by a  
6 regulatory agency that is required to certify an inpatient facility to  
7 receive Medicaid funding;

8                   (9) "Sexual contact" means the same as defined in § 5-14-101;  
9 and

10                  (10) "Vulnerable person" means any person who is:

11                   (A) Sixty-nine (69) years of age or older; or

12                   (B) In an inpatient facility receiving twenty-four (24)  
13 hour care.

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15                  5-29-203. Abuse of a vulnerable person.

16                  (a) A person commits abuse of a vulnerable person if, being a  
17 healthcare provider or caregiver, he or she purposely abuses a vulnerable  
18 person under his or her care or to whom he or she has access due to his or  
19 her position as a healthcare provider or caregiver.

20                  (b) Abuse of a vulnerable person is a:

21                   (1) Class B felony if the abuse causes serious physical injury  
22 or a substantial risk of death to the vulnerable person;

23                   (2) Class D felony if the abuse causes physical injury to the  
24 vulnerable person; or

25                   (3) Class B misdemeanor if otherwise committed.

26                  (c) It is an affirmative defense to a prosecution under this section  
27 for the use of a physical restraint or chemical restraint if the physical  
28 restraint or chemical restraint was necessary for the immediate safety of the  
29 vulnerable person, another patient, or staff in the inpatient facility.

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31                  5-29-204. Neglect of a vulnerable person.

32                  (a) A person commits neglect of a vulnerable person if, being a  
33 healthcare provider or caregiver, he or she purposely neglects a vulnerable  
34 person under his or her care or to whom he or she has access due to his or  
35 her position as a healthcare provider or caregiver.

36                  (b) Neglect of a vulnerable person is a:

1           (1) Class D felony if the neglect causes serious physical injury  
2 or a substantial risk of death to the vulnerable person;

3           (2) Class B misdemeanor if the neglect causes physical injury to  
4 the vulnerable person; or

5           (3) Class C misdemeanor if otherwise committed.

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7           5-29-205. Exploitation of a vulnerable person.

8           (a) A person commits exploitation of a vulnerable person if, being a  
9 healthcare provider or caregiver, he or she exploits a vulnerable person  
10 under his or her care or to whom he or she has access due to his or her  
11 position as a healthcare provider or caregiver.

12           (b) Exploitation of a vulnerable person is a:

13           (1) Class B felony if the value of the exploited assets is two  
14 thousand five hundred dollars (\$2,500) or more;

15           (2) Class C felony if the value of the exploited assets is more  
16 than two hundred dollars (\$200) but less than two thousand five hundred  
17 dollars (\$2,500); or

18           (3) Class A misdemeanor if the value of the exploited assets is  
19 two hundred dollars (\$200) or less.