

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

*As Engrossed: S3/21/13*  
**A Bill**

HOUSE BILL 1813

5 By: Representative Leding  
6 *By: Senator J. Woods*  
7

**For An Act To Be Entitled**

9 AN ACT TO CLARIFY THE ADULT AND LONG-TERM CARE  
10 FACILITY RESIDENT MALTREATMENT ACT; TO ADD  
11 DEFINITIONS AND TO DESCRIBE THE PROCEDURES OF THE  
12 DEPARTMENT OF HUMAN SERVICES; AND FOR OTHER PURPOSES.  
13

**Subtitle**

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16 TO CLARIFY THE ADULT AND LONG-TERM CARE  
17 FACILITY RESIDENT MALTREATMENT ACT; AND  
18 TO ADD DEFINITIONS AND TO DESCRIBE THE  
19 PROCEDURES OF THE DEPARTMENT OF HUMAN  
20 SERVICES.  
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22  
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 SECTION 1. Arkansas Code § 12-12-1703(9)(A), concerning the definition  
26 of impaired person for the Adult and Long-Term Care Facility Resident  
27 Maltreatment Act, is amended to read as follows:

28 (9)(A) "Impaired person" means a person eighteen (18) years of  
29 age or older who as a result of mental or physical impairment is unable to  
30 protect himself or herself from abuse, sexual abuse, neglect, or  
31 exploitation.

32 (B) For purposes of this subchapter, a long-term care  
33 facility resident is presumed to be an impaired person~~+~~.

34 (C) For purposes of this subchapter, a person who has a  
35 representative payee appointed for the person by the Social Security  
36 Administration or another authorized agency is presumed to be an impaired



1 person in relation to adult maltreatment through financial exploitation;

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3 SECTION 2. Arkansas Code § 12-12-1703(15)(B)(iii) and (iv), concerning  
4 the definition of neglect for the Adult and Long-Term Care Facility Resident  
5 Maltreatment Act, are amended to read as follows:

6 (iii) Negligently failing to carry out a ~~prescribed~~  
7 treatment plan developed or implemented by the facility; or

8 (iv) Negligently failing to provide goods or  
9 services to a long-term care facility resident necessary to avoid physical  
10 harm, mental anguish, or mental illness ~~as defined in rules promulgated by~~  
11 ~~the Office of Long-Term Care;~~

12  
13 SECTION 3. Arkansas Code § 12-12-1708, concerning persons required to  
14 report adult or long-term care facility resident maltreatment, is amended to  
15 add an additional subsection to read as follows:

16 (d)(1) Upon request the Department of Human Services shall provide a  
17 person listed in subsection (a)(1) of this section with confirmation of  
18 receipt of a report of maltreatment.

19 (2) However, confirmation shall consist only of the  
20 acknowledgement of receipt of the report and the date the report was made to  
21 the department.

22  
23 SECTION 4. Arkansas Code § 12-12-1710(b)(3), concerning investigations  
24 by the Department of Human Services under the Adult and Long-Term Care  
25 Facility Resident Maltreatment Act, is amended to read as follows:

26 (3) If requested by the department, a law enforcement agency  
27 possessing jurisdiction shall assist in the investigation of any case of  
28 suspected adult maltreatment or long-term care facility resident  
29 maltreatment, including accompanying the department's investigator if the  
30 department has a reasonable belief that the investigator's safety could be  
31 compromised.

32  
33 SECTION 5. Arkansas Code § 12-12-1715(a)(1)(B), concerning subpoenas  
34 in administrative adjudications, is amended to read as follows:

35 (B)(i) An unfounded hard copy report shall be ~~expunged~~  
36 destroyed one (1) year after the completion of the investigation-

1                                   ~~(ii) Demographic information may be retained for~~  
2 ~~statistical purposes; or~~

3  
4           SECTION 6. Arkansas Code § 12-12-1717(a)(7), concerning the  
5 availability of founded reports of adult or long-term care facility resident  
6 maltreatment, is repealed.

7                                   ~~(7)(A) A mandated reporter who has made a report of suspected~~  
8 ~~maltreatment.~~

9                                   ~~(B) However, a mandated reporter shall receive the~~  
10 ~~information only to the extent that he or she may be informed after~~  
11 ~~completion and closure of the investigation whether:~~

12   ~~(i) Legal action was taken;~~

13   ~~(ii) Services were provided; or~~

14   ~~(iii) No action was taken.~~

15                                   ~~(C) No further information shall be released to a mandated~~  
16 ~~reporter, and the mandated reporter shall be informed of the confidentiality~~  
17 ~~of the information and the penalties for disclosure;~~

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19           SECTION 7. Arkansas Code § 12-12-1717(a)(9), concerning the  
20 availability of founded reports of adult or long-term care facility resident  
21 maltreatment, is amended to read as follows:

22                                   (9) The department, including the Death Review Committee of the  
23 Department of Human Services;

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25           SECTION 8. Arkansas Code § 12-12-1717(a)(16), concerning the  
26 availability of founded reports of adult or long-term care facility resident  
27 maltreatment, is repealed.

28                                   ~~(16) The Division of Developmental Disabilities Services and the~~  
29 ~~Division of Aging and Adult Services as to participants of the waiver~~  
30 ~~program; and~~

31  
32           SECTION 9. Arkansas Code § 12-12-1717(b)(2), concerning the  
33 availability of founded reports of adult or long-term care facility resident  
34 maltreatment, is amended to read as follows:

35                                   (2) Except for the subject of the report, no person or agency to  
36 whom disclosure is made may disclose to any other person or agency a report

1 or other information obtained under this section.

2  
3 SECTION 10. Arkansas Code § 12-12-1718(b)(1)(K), concerning the  
4 availability of screened out, pending, and unfounded reports of adult or  
5 long-term care facility resident maltreatment, is amended to read as follows:

6 ~~(K) The Division of Developmental Disabilities Services~~  
7 ~~and the Division of Aging and Adult Services as to participants of the waiver~~  
8 ~~program.~~

9  
10 SECTION 11. Arkansas Code § 12-12-1718(c)(12), concerning the  
11 availability of screened out, pending, and unfounded reports of adult or  
12 long-term care facility resident maltreatment, is amended to read as follows:

13 ~~(12) The Division of Developmental Disabilities Services and the~~  
14 ~~Division of Aging and Adult Services as to participants of the waiver~~  
15 ~~program.~~

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17 SECTION 12. Arkansas Code § 12-12-1718(d) and (e)), concerning the  
18 availability of screened out, pending, and unfounded reports of adult or  
19 long-term care facility resident maltreatment, are amended to read as  
20 follows:

21 ~~(d)(1) An unfounded report shall be expunged one (1) year after~~  
22 ~~completion of the investigation~~ The department may retain automated  
23 information on unfounded reports for statistical purposes, to assess future  
24 risk, and to identify false reporting.

25 ~~(2) However, demographic information may be retained for~~  
26 ~~statistical purposes.~~

27 (e)(1) Except for the subject of the report, no person or agency to  
28 which disclosure is made may disclose to any other person or agency a report  
29 or other information obtained under this section.

30 (2) Upon conviction, any person disclosing information in  
31 violation of this subsection is guilty of a Class C misdemeanor.

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33 SECTION 13. Arkansas Code § 12-12-1722(a), concerning services  
34 available on investigative finding of ~~true or unsubstantiated~~ founded or  
35 unfounded reports of abuse of adult or long-term care facility resident  
36 maltreatment, is amended to read as follows:

1 (a) If an investigation under this subchapter is determined to be ~~true~~  
2 founded, the Department of Human Services may open a protective services  
3 case.

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5 SECTION 14. Arkansas Code § 12-12-1722(e), concerning services  
6 available on investigative finding of true or unsubstantiated reports of  
7 abuse of adult or long-term care facility resident maltreatment, is amended  
8 to read as follows:

9 (e) If the report of adult maltreatment is deemed ~~unsubstantiated~~  
10 unfounded, the department may offer supportive services to the alleged  
11 endangered person or impaired person.

12  
13 SECTION 15. Arkansas Code Title 12, Chapter 12, Subchapter 17, is  
14 amended to add an additional section to read as follows:

15 12-12-1723. Rules.

16 The Director of the Department of Human Services may adopt rules to  
17 implement this subchapter.

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