

1 SB85
2 209329-2
3 By Senator Smitherman
4 RFD: Judiciary
5 First Read: 02-FEB-21
6 PFD: 01/27/2021

SB85

ENROLLED, An Act,

Relating to elder abuse; to amend Section 38-9F-6, Code of Alabama 1975; to require the redaction of sensitive information including addresses and phone numbers for an elder abuse plaintiff from court documents made available to the public; and to clarify that an elderly person who is of sound mind or body may hire legal representation to pursue a petition for relief in an elder abuse matter.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 38-9F-6, Code of Alabama 1975, is amended to read as follows:

"§38-9F-6.

"(a) (1) If a plaintiff lacks the physical or mental capacity to seek protection for himself or herself, the following may file a sworn petition for relief on behalf of the plaintiff:

"~~(1)~~a. A court appointed guardian. The petition must include a copy of the court order appointing the petitioner as the plaintiff's guardian.

"~~(2)~~b. A court appointed conservator. The petition must include a copy of the court order appointing the petitioner as the plaintiff's conservator.

1 "~~(3)~~c. A temporary guardian appointed pursuant to
2 Section 26-2A-107. The petition must include a copy of the
3 court order appointing the petitioner as the plaintiff's
4 temporary guardian.

5 "~~(4)~~d. An agent, co-agent, or successor agent
6 appointed under the plaintiff's validly executed power of
7 attorney who acts within the authority of the power of
8 attorney. The petition shall include a copy of the power of
9 attorney.

10 "~~(5)~~e. A health care proxy appointed under the
11 plaintiff's validly executed Advance Directive for Health
12 Care, or similar document, who acts within the authority of
13 the designation. The petition shall include a copy of the
14 Advance Directive for Health Care or similar document.

15 "~~(6)~~f. An interested person who has the authority to
16 petition for protective placement or other protective services
17 under Section 38-9-6.

18 "(2) A plaintiff possessing the physical or mental
19 capacity to seek protection for himself or herself may either
20 represent himself or herself or may choose to hire legal
21 counsel for representation in all matters arising pursuant to
22 this chapter.

23 "(b) A sworn petition shall allege the incidents of
24 abuse and the specific facts and circumstances that form the
25 basis upon which relief is sought.

1 "(c) Standardized petitions for actions pursuant to
2 this chapter shall be made available through the circuit court
3 clerk's offices throughout the state. A circuit court clerk
4 and his or her staff shall not ~~be required to~~ provide
5 assistance to individuals in completing the forms or in
6 presenting the petitioner's case to the court.

7 "(d) The elderly person for whom the petition is
8 filed must be served with the petition pursuant to the Alabama
9 Rules of Civil Procedure.

10 "(e) (1) The following information shall be redacted
11 from any court document filed on or after the effective date
12 of the act adding this amendatory language by the filer:

13 "a. The plaintiff's home address and, if applicable,
14 business address.

15 "b. The plaintiff's home phone number, cellular
16 number, and business phone number.

17 "c. Any home address, business address, home
18 telephone number, cellular number, or business phone number of
19 any member of the plaintiff's family or household.

20 "d. Any address that would reveal the confidential
21 location of a shelter for victims of domestic violence as
22 defined in Section 30-6-1.

23 "(2) If disclosure of an address otherwise required
24 to be redacted pursuant to this subsection is necessary to
25 determine jurisdiction or to consider an issue of venue, the

1 disclosure shall only be made orally, in the private chambers
2 of the judge assigned to the case, with no members of the
3 public present.

4 "(3) In the event the plaintiff or his or her
5 representative does not disclose an address or telephone
6 number for the plaintiff to the court, disclosure of either of
7 the following shall be made to the court:

8 "a. An alternative address.

9 "b. The business address and business telephone
10 number of the plaintiff's attorney of record.

11 "(f) The court may not assess court costs or other
12 fees for the filing or service of a petition or the issuance
13 of a witness subpoena under this chapter against a petitioner
14 or plaintiff. Costs and fees may be assessed against the
15 defendant at the discretion of the court."

16 Section 2. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB85
Senate 09-FEB-21
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris,
Secretary.

House of Representatives
Passed: 25-FEB-21

By: Senator Smitherman