

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

SYNOPSIS: This bill would amend the Elder Abuse Protection Order and Enforcement Act 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.

 This bill would also amend the Elder Abuse Protection Order and Enforcement Act to clarify that an elderly person who is of sound mind or body may hire legal representation to pursue a petition for relief under the provisions of the act.

A BILL
TO BE ENTITLED
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

1 public; and to clarify that an elderly person who is of sound
2 mind or body may hire legal representation to pursue a
3 petition for relief in an elder abuse matter.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

7 "§38-9F-6.

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

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

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

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

22 "~~(4)~~d. An agent, co-agent, or successor agent
23 appointed under the plaintiff's validly executed power of
24 attorney who acts within the authority of the power of
25 attorney. The petition shall include a copy of the power of
26 attorney.

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

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

9 "(2) A plaintiff possessing the physical or mental
10 capacity to seek protection for himself or herself may either
11 represent himself or herself or may choose to hire legal
12 counsel for representation in all matters arising pursuant to
13 this chapter.

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

17 "(c) Standardized petitions for actions pursuant to
18 this chapter shall be made available through the circuit court
19 clerk's offices throughout the state. A circuit court clerk
20 and his or her staff shall not ~~be required to~~ provide
21 assistance to individuals in completing the forms or in
22 presenting the petitioner's case to the court.

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

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

4 "a. The plaintiff's home address and, if applicable,
5 business address.

6 "b. The plaintiff's home phone number, cellular
7 number, and business phone number.

8 "c. Any home address, business address, home
9 telephone number, cellular number, or business phone number of
10 any member of the plaintiff's family or household.

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

14 "(2) If disclosure of an address otherwise required
15 to be redacted pursuant to this subsection is necessary to
16 determine jurisdiction or to consider an issue of venue, the
17 disclosure shall only be made orally, in the private chambers
18 of the judge assigned to the case, with no members of the
19 public present.

20 "(3) In the event the plaintiff or his or her
21 representative does not disclose an address or telephone
22 number for the plaintiff to the court, disclosure of either of
23 the following shall be made to the court:

24 "a. An alternative address.

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

1 "(f) The court may not assess court costs or other
2 fees for the filing or service of a petition or the issuance
3 of a witness subpoena under this chapter against a petitioner
4 or plaintiff. Costs and fees may be assessed against the
5 defendant at the discretion of the court."

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