

1 SB167
2 198300-2
3 By Senator Smitherman
4 RFD: Judiciary
5 First Read: 11-FEB-20

1 SB167

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

21 "§38-9F-6.

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

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

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

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

11 "~~(4)~~d. An agent, co-agent, or successor agent
12 appointed under the plaintiff's validly executed power of
13 attorney who acts within the authority of the power of
14 attorney. The petition shall include a copy of the power of
15 attorney.

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

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

24 "(2) A plaintiff possessing the physical or mental
25 capacity to seek protection for himself or herself may either
26 represent himself or herself or may choose to hire legal

1 counsel for representation in all matters arising pursuant to
2 this chapter.

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

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

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

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

18 "a. The plaintiff's home address and, if applicable,
19 business address.

20 "b. The plaintiff's home phone number, cellular
21 number, and business phone number.

22 "c. Any home address, business address, home
23 telephone number, cellular number, or business phone number of
24 any member of the plaintiff's family or household.

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

1 "(2) If disclosure of an address otherwise required
2 to be redacted pursuant to this subsection is necessary to
3 determine jurisdiction or to consider an issue of venue, the
4 disclosure shall only be made orally, in the private chambers
5 of the judge assigned to the case, with no members of the
6 public present.

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

11 "a. An alternative address.

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

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

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

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3 Senate

4 Read for the first time and referred to the Senate
5 committee on Judiciary..... 11-FEB-20
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7 Read for the second time and placed on the calen-
8 dar..... 20-FEB-20
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10 Read for the third time and passed as amended 25-FEB-20

11 Yeas 32
12 Nays 0

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15 Patrick Harris,
16 Secretary.
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