

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Senator Harriman**

**A BILL ACT 1208 OF 1991**  
**SENATE BILL 661**

**For An Act To Be Entitled**

8 "AN ACT TO REVISE THE LAWS OF ARKANSAS RELATING TO THE  
9 REPORTING AND INVESTIGATION OF CHILD MALTREATMENT; AND FOR  
10 OTHER PURPOSES."

11  
12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

13  
14 SECTION 1. Purpose. It is the purpose of this act, through the use of  
15 complete reporting of child abuse, to protect the best interest of the child,  
16 to prevent further harm to the child, to stabilize the home environment, to  
17 preserve family life, and to encourage cooperation among the states in dealing  
18 with child abuse.

19  
20 SECTION 2. Definitions. As used in this act, unless the context  
21 otherwise requires:

22 (1) "Child" or "juvenile" means an individual who:

23 (A) Is under the age of eighteen (18) years, whether married or  
24 single;

25 (B) Is under the age of twenty-one (21) years, whether married or  
26 single, who was adjudicated delinquent under the Arkansas Juvenile Code for an  
27 act committed prior to the age of eighteen (18) years and for whom the court  
28 retains jurisdiction; or

29 (C) Was adjudicated dependent-neglected under the Arkansas  
30 Juvenile Code before reaching the age of eighteen (18) years and who, while  
31 engaged in a course of instruction or treatments, requests the court to retain  
32 jurisdiction until the course has been completed.

33 (2) "Parent" means a biological mother, an adoptive parent, a man to  
34 whom the biological mother was married at the time of conception or birth, or  
35 who has been found, by a court of competent jurisdiction, to be the biological  
36 father of the juvenile.

1           (3) "Child maltreatment" means abuse, sexual abuse, neglect, sexual  
2 exploitation, or abandonment;

3           (4) "Abuse" means any of the following acts or omissions by a parent,  
4 guardian, custodian, foster parent, or any person who is entrusted with the  
5 juvenile's care by a parent, guardian, custodian, or foster parent, including,  
6 but not limited to, an agent or employee of a public or private residential  
7 home, child care facility, public or private school, or any person legally  
8 responsible for the juvenile's welfare:

9                   (A) Extreme and repeated cruelty to a juvenile; or

10                   (B) Physical, psychological, or sexual abuse of any juvenile  
11 which includes, but is not limited to, intentionally, knowingly, or  
12 negligently and without justifiable cause:

13                           (i) Engaging in conduct creating a substantial possibility  
14 of death, permanent or temporary disfigurement, illness, impairment of any  
15 bodily organ, or an observable and substantial impairment in the intellectual  
16 or psychological capacity of the juvenile to function within his normal range  
17 of performance and behavior with due regard to his culture except when the  
18 juvenile is being furnished with treatment by spiritual means alone through  
19 prayer, in accordance with the tenets and practices of a recognized religious  
20 denomination by a duly accredited practitioner thereof in lieu of medical  
21 treatment;

22                           (ii) Any nonaccidental physical injury or mental injury; or

23                           (iii) Any injury which is at variance with the history  
24 given.

25           (5) "Sexual abuse" includes solicitation or participation in sexual  
26 activity with a juvenile by an adult or person responsible for the care and  
27 maintenance of the juvenile. Sexual abuse also includes any offense relating  
28 to sexual activity, abuse, or exploitation, including rape and incest, as set  
29 out and defined in the Arkansas Criminal Code and amendment thereto, §5-1-101  
30 et seq.

31           (6) "Neglect" means those acts or omissions, of a parent, guardian,  
32 custodian, foster parent, or any person who is entrusted with the juvenile's  
33 care by a parent, custodian, guardian, or foster parent, including, but not  
34 limited to, an agent or employee of a public or private residential home,  
35 child care facility, public or private school, or any person legally

1 responsible under state law for the juvenile's welfare which constitute:

2           (A) Failure or refusal to prevent the abuse of the juvenile when  
3 such person knows or has reasonable cause to know the juvenile is or has been  
4 abused;

5           (B) Failure or refusal to provide the necessary food, clothing,  
6 shelter, and education required by law, or medical treatment necessary for the  
7 juvenile's well-being, except when the failure or refusal is caused primarily  
8 by the financial inability of the person legally responsible and no services  
9 for relief have been offered or rejected, or when the juvenile is being  
10 furnished with treatment by spiritual means alone through prayer, in  
11 accordance with the tenets and practices of a recognized religious  
12 denomination by a duly accredited practitioner thereof in lieu of medical  
13 treatment;

14           (C) Failure to take reasonable action to protect the juvenile  
15 from abandonment, abuse, sexual abuse, sexual exploitation, neglect, or  
16 parental unfitness where the existence of such condition was known or should  
17 have been known;

18           (D) Failure or irremedial inability to provide for the essential  
19 and necessary physical, mental, or emotional needs of the juvenile;

20           (E) Failure to provide for the juvenile's care and maintenance,  
21 proper or necessary support, or medical, surgical, or other necessary care; or

22           (F) Failure, although able, to assume responsibility for the care  
23 and custody of the juvenile or participate in a plan to assume such  
24 responsibility.

25           (7) "Sexual exploitation" means allowing, permitting, or encouraging  
26 participation or depiction of the juvenile in prostitution, obscene  
27 photographing, filming, or obscenely depicting a juvenile for any use or  
28 purpose.

29           (8) "Abandonment" means the failure of the parent to provide reasonable  
30 support and to maintain regular contact with the juvenile through statement or  
31 contact, when the failure is accompanied by an intention on the part of the  
32 parent to permit the condition to continue for an indefinite period in the  
33 future, and failure to support or maintain regular contact with the juvenile  
34 without just cause for a period of one (1) year shall constitute a rebuttable  
35 presumption of abandonment.

1 (9) "Caretaker" means a parent, guardian, custodian, foster parent, or  
 2 any person ten (10) years of age or older who is entrusted with a child's care  
 3 by a parent, guardian, custodian, or foster parent, including, but not limited  
 4 to, an agent or employee of a public or private residential home, child care  
 5 facility, public or private school, or any person legally responsible for a  
 6 child's welfare;

7 (10) "Severe Maltreatment" means sexual abuse, sexual exploitation,  
 8 acts or omissions which may or do result in death, abuse involving the use of  
 9 a *deadly weapon as defined by the Arkansas Criminal Code, bone fracture,*  
 10 *internal injuries, burns, immersions, suffocation, abandonment, medical*  
 11 *diagnosis of failure to thrive, or causing a substantial and observable change*  
 12 *in the behavior or demeanor of the child except that a child shall not be*  
 13 *considered to be severely maltreated when the child is being furnished with*  
 14 *treatment by a spiritual means alone, through prayer, in accordance with the*  
 15 *tenants and practices of a recognized religious denomination by a duly*  
 16 *accredited practitioner thereof in lieu of medical treatment;*

17 (11) "Department" means the Arkansas Department of Human Services;

18 (12) "Subject of the report" means the perpetrator, the parents and  
 19 caretakers of the child who is subject to suspected maltreatment, and the  
 20 child who is the subject of suspected maltreatment; and

21 (13) "Central Intake" refers to a unit which shall be established by  
 22 the Department of Human Services for the purpose of receiving and recording  
 23 notification made pursuant to this act. Central intake shall be staffed  
 24 twenty-four (24) hours per day and shall have statewide accessibility through  
 25 a toll free telephone number.

26

27 SECTION 3. Notification. (a) Any person with reasonable cause to  
 28 suspect child maltreatment, or that a child has died as a result of child  
 29 maltreatment, or who observes a child being subjected to conditions or  
 30 circumstances which would reasonably result in child maltreatment may  
 31 immediately notify central intake or law enforcement.

32 (b) When any physician, surgeon, coroner, dentist, osteopath, resident  
 33 intern, licensed nurse, medical personnel who may be engaged in admission,  
 34 examination, care, or treatment of persons, teacher, school official, school  
 35 counselor, social worker, family service worker, day care center worker or any

1 other child or foster care worker, mental health professional, peace officer,  
 2 or law enforcement official has reasonable cause to suspect that a child has  
 3 been subjected to child maltreatment, or that a child has died as a result of  
 4 child maltreatment, or who observes the child being subjected to conditions or  
 5 circumstances which would reasonably result in child maltreatment, he shall  
 6 immediately notify central intake or law enforcement.

7       (c) Any person who is required to make notification under this act may  
 8 take or cause to be taken x-rays, photographs, or compile medical records  
 9 which may be probative as to the existence or extent of child maltreatment.  
 10 The Department or law enforcement officials shall have access to such x-rays,  
 11 photographs, or medical records upon request.

12       (d) No privilege or contract shall relieve anyone required by this act  
 13 to make notification of the requirement of making notification.

14       (e) In the event that central intake receives notification that a  
 15 client or a resident of any facility licensed or registered by the State of  
 16 Arkansas has been subjected to child maltreatment while at such facility,  
 17 central intake shall immediately notify that facility's licensing or  
 18 registering authority of its receipt of initial notification of suspected  
 19 maltreatment.

20

21       SECTION 4. Investigation. (a) *The Department shall cause an*  
 22 *investigation to be made upon receiving initial notification of suspected*  
 23 *child maltreatment. All investigations shall begin within seventy-two (72)*  
 24 *hours. However, if the notice contains an allegation of severe maltreatment*  
 25 *then the department shall immediately notify law enforcement, and department*  
 26 *shall initiate an investigation in cooperation with law enforcement agencies*  
 27 *and the prosecuting attorney within twenty-four (24) hours.*

28       (b) When a person, agency, corporation or partnership then providing  
 29 substitute care for any child in the custody of the department, or a  
 30 department employee or employee's spouse or other person residing in the home  
 31 is reported as being suspected of child maltreatment the investigation shall  
 32 be conducted pursuant to procedures established by the department. Such  
 33 procedures shall include referral of allegations to the Arkansas State Police  
 34 or appropriate law enforcement agency should the allegation involve severe  
 35 maltreatment.

1 (c) The investigation shall seek to ascertain the existence, cause,  
2 nature and extent of the child maltreatment; the existence and extent of  
3 previous injuries; the identity of the person responsible therefore; the names  
4 and conditions of other children in the home; the circumstances of the parents  
5 or caretakers of the child; the environment where the child resides, and the  
6 relationship of the child or children with the parents or caretakers; and all  
7 other pertinent data.

8 (d) *The investigation shall include interviews with the parent(s),*  
9 *caretaker(s) as may be relevant to the alleged maltreatment, and the alleged*  
10 *perpetrator. If after exercising reasonable diligence in conducting any or*  
11 *all interviews and the subject(s) of the interview(s) cannot be located or*  
12 *is/are unable to communicate the efforts to conduct such interview(s) shall be*  
13 *documented and the investigation shall proceed pursuant to this act.*

14 (e) The investigation shall include an interview with the child.  
15 However, if the age or abilities of the child render an interview impossible,  
16 the investigation shall include observation of the child.

17 (f) The investigation may include a physical examination and a  
18 psychological or psychiatric examination of all children subject to the care,  
19 custody or control of the same caretaker.

20 (g) The person conducting the investigation shall have the right to  
21 enter into or upon the home, school, or other place, for the purpose of  
22 conducting an interview or completing the investigation required by this act.  
23 If necessary access or admission is denied, the department may petition the  
24 proper Juvenile Division of the Chancery Court for an order requiring the  
25 parents, caretaker or persons denying access to any place where the child may  
26 be to allow entrance for the interviews, examinations and investigations.  
27 However, upon application to the court showing good cause, the order may be  
28 stayed pending a hearing to be held within seventy-two (72) hours.

29 (h) If at any time before or during the investigation it is determined  
30 that the alleged perpetrator is not a caretaker of any child and the alleged  
31 victim has attained majority prior to notification, the *department's*  
32 investigation shall be closed.

33 (i) If at any time before or during the investigation it appears that  
34 the perpetrator is identified and is not a caretaker of any child, the  
35 department shall refer the matter to the appropriate law enforcement agency,

1 shall conclude its investigation, and shall forward a copy of its findings to  
 2 the appropriate law enforcement agency for that agency's further use in any  
 3 criminal investigation. If the appropriate law enforcement agency  
 4 subsequently determines that the perpetrator is a caretaker, it shall  
 5 immediately notify the department of its determination. Thereupon the  
 6 department shall reopen and continue its investigation in compliance with all  
 7 other requirements contained in this act.

8 (j) An investigative determination shall be made in each investigation  
 9 within thirty (30) days. However, this procedural requirement shall not be  
 10 considered as a factor to alter the investigative determination in any  
 11 judicial or administrative proceeding.

12

13 SECTION 5. Investigative Determination. (a) Upon completion of the  
 14 investigation the department shall determine that the allegations of child  
 15 maltreatment are:

16 (1) *Unfounded.* This determination shall be entered when the  
 17 allegation is not supported by some credible evidence.

18 (2) *Founded.* This determination shall be entered when the  
 19 allegation is supported by some credible evidence.

20 (b) If the investigation cannot be completed, the investigation shall  
 21 be determined incomplete and placed in inactive status.

22

23 SECTION 6. Investigative Report. (a) The department shall make a  
 24 complete written report of the investigation by the conclusion of the thirty  
 25 (30) day time period set forth in Section 4(j) of this act. The report shall  
 26 include the following information:

27 (1) The names and addresses of the child and his legal parents  
 28 and other caretakers of the child, if known;

29 (2) The child's age, sex and race;

30 (3) The nature and extent of the child's present and past  
 31 injuries;

32 (4) The investigative determination;

33 (5) The nature and extent of the child maltreatment including any  
 34 evidence of previous injuries or child maltreatment to the child or his  
 35 siblings;

1                   (6) The name and address of the person responsible for the  
 2 injuries or child maltreatment, if known;  
 3                   (7) Services offered and accepted;  
 4                   (8) Family composition;  
 5                   (9) The source of the notification; and  
 6                   (10) The person making the notification, his occupation, and where  
 7 he can be reached.

8           (b) A copy of the written report shall immediately be filed with the  
 9 appropriate law enforcement agency, the prosecuting attorney's office, and the  
 10 Central Registry. In the event the investigation is not conducted by the  
 11 department or its agents, the *responsible* investigator shall immediately file  
 12 a copy of the report with the department.

13           (c) Notwithstanding any provision of this act, the department shall  
 14 forward the investigative determination (exclusive of the *source of the*  
 15 *notification; name of the person making notification, occupation, and where*  
 16 *they can be reached) to the parents and alleged perpetrator(s) by regular mail*  
 17 addressed to the recipient's last known address.

18           (d) The report, exclusive of information identifying the person making  
 19 the notification, shall be admissible in evidence in any proceeding related to  
 20 child maltreatment.

21

22           SECTION 7. Appeals and Amendments. (a) In every case where a report  
 23 *is determined to be Founded the department shall notify each subject of the*  
 24 report of the determination. Notification may be by hand delivery or by  
 25 regular mail. Such notification shall include the following:

26                   (1) A statement that an adult subject of the report may request  
 27 the department to amend information contained in a report in order to correct  
 28 error or false statement, and

29                   (2) A statement that such request must be made within thirty (30)  
 30 *days of receipt* of the hand delivery or mailing of the notice of determination  
 31 by an adult subject of the report.

32           (b) If the request *for amendment* is denied, the alleged perpetrator or  
 33 adult subject to the report may, within thirty (30) days of mailing of the  
 34 notice of denial *of request for amendment*, file a written request for an  
 35 administrative hearing.



1 (c) The hearing process must be completed within ninety (90) days from  
2 the date of the receipt of the request for a hearing.

3 (d) No action by appeal or otherwise shall be brought more than two (2)  
4 years after the completion of the investigation.

5 (e) (1) When the department conducts such administrative appeal  
6 hearings, the chief counsel of the department is authorized to require the  
7 attendance of witnesses and the production of books, records, or other  
8 documents through the issuance of subpoenas when such testimony or information  
9 is necessary to adequately present the position of the Department of Human  
10 Services, the investigating protective services agency, or the alleged  
11 perpetrator or adult subject of a report.

12 (2) Requests for subpoenas shall be granted by the chief counsel  
13 of the department if the testimony or documents desired are considered  
14 necessary and material without being unduly repetitious of other available  
15 evidence.

16 (3) Subpoenas issued pursuant to the authority of the chief  
17 counsel of the department shall be substantially in the following form:

18 "The State of Arkansas to the Sheriff of \_\_\_\_\_ County:

19 You are commanded to subpoena

20 (name) \_\_\_\_\_,

21 (address) \_\_\_\_\_, to attend a proceeding

22 before the Arkansas Department of Human Services to be held at \_\_\_\_\_

23 on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_ M., and testify

24 and/or produce the following books, records, or other documents, to-

25 wit: \_\_\_\_\_

26 \_\_\_\_\_

27 in the matter of (style of proceeding) \_\_\_\_\_

28 being conducted under the authority of \_\_\_\_\_

29 \_\_\_\_\_.

30 WITNESS my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

31

32

33 \_\_\_\_\_  
Chief Counsel, Department of Human Services

34 (f) (1) Subpoenas provided for in this section shall be served in the  
35 manner as now provided by law and returned and a copy made and kept by the

1 Department of Human Services.

2 (2) The fees and mileage for officers serving the subpoenas and  
 3 witnesses answering the subpoenas shall be the same as now provided by law.

4 (3) Witnesses duly served with subpoenas issued pursuant to the  
 5 authority provided in this section who shall refuse to testify or give  
 6 evidence may be cited on affidavit through application of the *chief counsel* of  
 7 the department to the circuit court of Pulaski County or any circuit court of  
 8 the state where the subpoenas were served. Failure to obey the subpoena may  
 9 be deemed a contempt, punishable accordingly.

10

11 SECTION 8. Central Registry. (a) There is established within the  
 12 Department of Human Services a statewide central registry for the collection  
 13 of information relative to child maltreatment gathered pursuant to this act.

14 (b) The central registry shall contain, but shall not be limited to:

15 (1) Notification submitted pursuant to Section 3 of this act.

16 (2) All the information in the written report.

17 (3) The names and identifying data, dates, and circumstances of  
 18 any persons requesting or receiving information from the registry.

19

20 SECTION 9. Disclosure of Central Registry Data. (a) Reports made  
 21 pursuant to this act, shall be confidential and may be used or disclosed only  
 22 as provided in this section. If the allegations are determined to be *Founded*  
 23 in accordance with Section 5 of this act, disclosure is limited to:

24 (1) The administration of the adoption, foster care, children's  
 25 protective services programs, or child care licensing programs of any state;

26 (2) Any investigation or prosecution conducted in connection with  
 27 the administration of the Arkansas Child Welfare State Plan;

28 (3) Any person who is the subject of a report;

29 (4) A civil or administrative proceeding connected with the  
 30 administration of the Arkansas Child Welfare State Plan where the court or  
 31 hearing officer determines the information is necessary for the determination  
 32 of an issue before the court or agency;

33 (5) The administration of any federal or federally assisted  
 34 program which provides assistance, in cash or in kind, or services directly to  
 35 individuals on the basis of need; and

1                   (6) An audit or similar activity conducted in connection with the  
 2 administration of such plan or program by any governmental agency which is  
 3 authorized by law to conduct the audit or activity.

4           (b) *If the allegations are determined to be Unfounded, the report may*  
 5 *be used only within the department for purposes of the administration of*  
 6 *adoption, foster care, childrens protective services programs, or child care*  
 7 *licensing programs. There can be no further disclosure of this information.*

8           (c) Any licensing or registering authority in receipt of initial  
 9 notification of suspected child maltreatment may access the central registry  
 10 to the extent necessary to carry out its official responsibilities, *but the*  
 11 *information must be maintained as confidential.*

12           (d) Any person or agency to whom disclosure is made shall not disclose  
 13 to any other person reports or other information obtained pursuant to this  
 14 subdivision. Provided, however, that a certified *school* counselor of a public  
 15 school *shall* make disclosure to another certified counselor of a public school  
 16 in which the child enrolls. Upon receiving a request from a certified *school*  
 17 counselor indicating the child is now enrolled in his school, and requesting  
 18 information on the child, the *certified school* counselor of the school  
 19 previously attended by the child *shall* forward the information requested to  
 20 the *certified school* counselor, in addition to information received pursuant  
 21 to this subdivision, and shall notify the department of the child's new  
 22 school, and address, if known. Any person disclosing information in violation  
 23 of this *subsection* shall be guilty of a Class C misdemeanor.

24           (e) *Disclosure is prohibited to any committee or legislative body,*  
 25 *other than an agency referred to in Section 4 of this Act with respect to an*  
 26 *activity referred to in such clause, of any information which identifies by*  
 27 *name or address, any applicant or recipient.*

28           (f) *The Department shall not release data that would identify the*  
 29 *person who made the report or who cooperated in a subsequent investigation*  
 30 *unless a court of competent jurisdiction orders release of the information for*  
 31 *good cause shown. However, the information shall be disclosed to the*  
 32 *prosecuting attorney or law enforcement officers on request.*

33           (g) *Within ten (10) days following an investigative determination, the*  
 34 *Department shall provide the person or agency making notification of suspected*  
 35 *child maltreatment information as to whether an investigation has been*

1 conducted and whether services have been offered.

2 (h) (1) If the person or agency making the initial notification of  
 3 suspected child maltreatment is required to do so by this act, the Department,  
 4 within ten (10) business days of the investigative determination, shall  
 5 provide to the person the following information:

6 (A) the investigative determination; and

7 (B) Services Offered and Provided.

8 (2) If the person or agency making the initial notification is a  
 9 teacher or school official, the school counselor shall also receive the  
 10 required information set forth in Section 9(h) (1) of this act.

11 (i) The Department may provide information to a person or agency that  
 12 provides professional services, such as medical examination or an assessment  
 13 interview with a victim of maltreatment. This information may include:

14 (1) the investigative determination; and/or

15 (2) the services offered and provided.

16 (j) Records of all cases where allegations are determined to be *Founded*  
 17 which are retained by the central registry in accordance with the terms of  
 18 this act, shall be sealed when the youngest minor subject of the report  
 19 reaches the age of twenty-one (21) years. Once sealed, the records shall not  
 20 otherwise be available unless the department, upon notice to the subjects of  
 21 the report, gives approval for an appropriate reason. Records of cases where  
 22 allegations are determined to be *Unfounded* shall be destroyed at the  
 23 expiration of three (3) years.

24 (k) Central registry may adopt such rules and regulations as may be  
 25 necessary to encourage cooperation with other states in exchanging reports,  
 26 and to affect a national registration system.

27

28 SECTION 10. Protective Custody of Children. (a) A police officer, a  
 29 law enforcement official, or a designated employee of the Department of Human  
 30 Services, may take a child into protective custody, or any person in charge of  
 31 a hospital or similar institution or any physician treating a child may keep  
 32 that child in his custody without the consent of the parent or the guardian,  
 33 whether or not additional medical treatment is required, if the circumstances  
 34 or conditions of the child are such that continuing in his place of residence  
 35 or in the care and custody of the parent, guardian, custodian, or caretaker

1 presents an immediate danger of severe maltreatment. However, such custody  
2 shall not exceed seventy-two (72) hours, except in the event that the  
3 expiration of seventy-two (72) hours falls on a weekend or holiday, in which  
4 case, protective custody may be extended through the next business day  
5 following the weekend or holiday.

6 (b) The individual taking the child into protective custody may give  
7 effective consent for medical, dental, health, and hospital services during  
8 protective custody.

9 (c) In any case in which protective custody is invoked the individual  
10 taking the child into protective custody shall notify the Department in order  
11 that a child protective proceeding may be initiated within the time specified  
12 in this section.

13 (d) The department or prosecuting attorney is empowered to file  
14 petitions in the appropriate court seeking imposition of penalties for  
15 violation of this act.

16

17 SECTION 11. Good Faith Actions

18 (a) Any person or agency required to participate and acting in good  
19 faith in making notification, the taking of photographs or x-rays, or the  
20 removal of a child while exercising protective services shall be immune to  
21 suit and to liability, both civil and criminal.

22 (b) All persons making notification not named in Section 11 (a), if  
23 acting in good faith, shall be immune from liability.

24

25 SECTION 12. Penalties. (a) Any person, official, or institution  
26 willfully making false notification pursuant to this act knowing such  
27 allegations to be false or negligently or willfully failing to make  
28 notification when required by this act shall be guilty of a Class C  
29 misdemeanor.

30 (b) Any person, official, or institution required by this act to make  
31 notification of suspected child maltreatment who willfully fails to do so,  
32 shall be civilly liable for damages proximately caused by that failure.

33 (c) Any person who willfully permits, and any other person who  
34 encourages, the release of data or information contained in the central  
35 registry to persons to whom disclosure is not permitted by this act, shall be

1 guilty of a Class A misdemeanor.

2

3 SECTION 13. Privileged Communications as Evidence - Exception. It is  
4 the public policy of the State of Arkansas to protect the health, safety, and  
5 the welfare of minors within the state. In order to effectuate that policy:

6 (1) Any provision of the Arkansas Uniform Rules of Evidence  
7 notwithstanding, and except as provided in subsection (2) of this section, any  
8 privilege between husband and wife or between any professional person, except  
9 lawyer/client and between a minister, including a Christian Science  
10 Practitioner, and any person confessing to or being counseled by a minister,  
11 shall not constitute grounds for excluding evidence at any proceeding  
12 regarding child abuse, sexual abuse, or neglect of a child.

13 (2) Any provision to the Arkansas Uniform Rules of Evidence  
14 notwithstanding; any privilege between a minister, including a Christian  
15 Science Practitioner, and any person confessing to or being counseled by the  
16 minister shall not constitute grounds for excluding evidence at any  
17 dependent/neglect proceeding or proceedings involving the custody of a minor.

18 (3) When any physician, psychologist, psychiatrist, or licensed  
19 counselor or therapist conducts interviews with or provides therapy to any  
20 subject of a report of suspected child maltreatment for purposes related to  
21 child maltreatment, the physician, psychologist, psychiatrist, or licensed  
22 counsellor or therapist shall be deemed to be performing services on behalf of  
23 the child. Adult subjects of a report of suspected child maltreatment cannot  
24 invoke privilege on the child's behalf.

25 (4) Transcripts of testimony introduced in a child maltreatment  
26 proceeding pursuant to this section shall not be received into evidence in any  
27 other civil or criminal proceeding.

28

29 SECTION 14. Miscellaneous. (a) The director of the department shall  
30 promulgate regulations to implement the provisions of this act.

31 (b) The director of the department shall initiate formal cooperative  
32 agreements with law enforcement agencies, prosecuting attorneys, and other  
33 appropriate agencies and individuals in order to implement a coordinated  
34 multidisciplinary team-approach to intervention in reports involving severe  
35 maltreatment, and may enter into cooperative agreements with other states to

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1 create a national child maltreatment registration system.

2

3 SECTION 15. All provisions of this act of a general and permanent  
4 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
5 Code Revision Commission shall incorporate the same in the Code.

6

7 SECTION 16. If any provision of this act or the application thereof to  
8 any person or circumstance is held invalid, such invalidity shall not affect  
9 other provisions or applications of the act which can be given effect without  
10 the invalid provision or application, and to this end the provisions of this  
11 act are declared to be severable.

12

13 SECTION 17. Ark. Code Ann. 12-12-501 through 12-12-516 inclusive, and  
14 all laws and parts of laws in conflict with this act are hereby repealed.

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*/s/Harriman*

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APPROVED: 4-10-91

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