

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: S4/16/03
A Bill

HOUSE BILL 1546

5 By: Representative Thyer
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For An Act To Be Entitled

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9 AN ACT TO INCREASE THE TIME IN WHICH AN
10 ADMINISTRATIVE HEARING MUST TAKE PLACE UNDER THE
11 ARKANSAS CHILD MALTREATMENT ACT; AND FOR OTHER
12 PURPOSES.
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Subtitle

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15 AN ACT TO INCREASE THE TIME IN WHICH AN
16 ADMINISTRATIVE HEARING MUST TAKE PLACE
17 UNDER THE ARKANSAS CHILD MALTREATMENT
18 ACT.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code 12-12-512(c), concerning administrative
24 hearings under the Arkansas Child Maltreatment Act, is amended to read as
25 follows:

26 (c)(1)(A) In every case where a report is determined to be true, the
27 department shall notify each subject of the report of the determination.

28 (B) Notification shall be in writing by certified mail,
29 restricted delivery, or by a process server.

30 (C) Notification shall include the following:

31 (i) The investigative determination, true or
32 unsubstantiated, exclusive of the source of the notification;

33 (ii) A statement that the person named as the
34 offender of the true report may request an administrative hearing;

35 (iii) A statement that the request must be made to
36 the department within thirty (30) days of receipt of the hand delivery or



1 mailing of the notice of determination; and

2 (iv) The name of the person making notification, the
3 person's occupation, and where he or she can be reached.

4 (2) The administrative hearing process must be completed within
5 ~~ninety (90)~~ one hundred eighty (180) days from the date of the receipt of the
6 request for a hearing or the petitioner's name shall be removed from the
7 central registry, provided that:

8 (A) Delays in completing the hearing that are attributable
9 to the petitioner shall not count against the ~~ninety-day~~ one hundred eighty-
10 day limit; and

11 ~~(B) Failure to complete the hearing process in a timely~~
12 ~~fashion shall not deprive the department or a court reviewing the child~~
13 ~~maltreatment determination of jurisdiction to make a final agency~~
14 ~~determination or review a final agency determination pursuant to the Arkansas~~
15 ~~Administrative Procedure Act, § 25-15-201 et seq.; and~~

16 ~~(C)-(i)-(B)(i)~~ (B)(i) The ~~ninety-day~~ one hundred eighty-day limit
17 shall not apply if there is an ongoing criminal investigation or criminal
18 charges have or will be filed regarding the occurrence that is the subject of
19 the child maltreatment report.

20 (ii) In those cases the administrative hearing shall
21 be stayed pending final disposition of the criminal proceedings.

22 (iii) It shall be the duty of the petitioner to
23 report the final disposition of the criminal proceeding to the department.

24 (iv) Each report shall include a file-marked copy of
25 the criminal disposition.

26 (v) The request for administrative hearing shall be
27 deemed waived if the petitioner fails to report the disposition of the
28 criminal proceedings within thirty (30) days of the entry of a dispositive
29 judgment or order.

30 (vi) If the criminal proceedings have reached no
31 final outcome within twelve (12) months of the filing of the administrative
32 appeal, the administrative appeal will be deemed waived if the petitioner
33 fails to provide a written statement of the status of the criminal
34 proceedings every sixty (60) days and a disposition report within thirty (30)
35 days of the entry of a dispositive judgment or order.

36 (3) No action by appeal shall be brought more than two (2) years

1 after the completion of the investigation.

2 (4) When the department conducts such administrative appeal
3 hearings, the chief counsel of the department is authorized to require the
4 attendance of witnesses and the production of books, records, or other
5 documents through the issuance of subpoenas when such testimony or
6 information is necessary to adequately present the position of the
7 department, the investigating protective services agency, or the alleged
8 offender or adult subject of a report.

9 (5)(A) In the event that a petitioner's name is removed from the
10 registry as a result of a failure to comply with this subsection (c), the
11 Department of Human Services shall report the failure to comply to the House
12 Interim Committee on Aging, Children and Youth, Legislative and Military
13 Affairs and the Senate Interim Committee on Children and Youth.

14 (B) The reports shall be submitted quarterly with a
15 written explanation of the department's failure to comply.

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17 /s/ Thyer
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