

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

SENATE BILL 662

5 By: Senator A. Clark
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE CHILD WELFARE OMBUDSMAN DIVISION
9 WITHIN THE ARKANSAS CHILD ABUSE/RAPE/DOMESTIC
10 VIOLENCE COMMISSION; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO CREATE THE CHILD WELFARE OMBUDSMAN
14 DIVISION WITHIN THE ARKANSAS CHILD
15 ABUSE/RAPE/DOMESTIC VIOLENCE COMMISSION.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. DO NOT CODIFY. Legislative intent.

22 It is the intent of the General Assembly to create a Child Welfare
23 Ombudsman Division within the Arkansas Child Abuse/Rape/Domestic Violence
24 Commission to provide for independent oversight of the child welfare system
25 in Arkansas.
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27 SECTION 2. Arkansas Code § 9-9-217(a)(1), concerning the
28 confidentiality of hearings and records under the Revised Uniform Adoption
29 Act, is amended to read as follows:

30 (1)(A) All hearings held in proceedings under this subchapter
31 shall be held in closed court without admittance of any person other than
32 essential officers of the court, the parties, their witnesses, counsel,
33 persons who have not previously consented to the adoption but are required to
34 consent, and representatives of the agencies present to perform their
35 official duties.

36 (B)(i)(a) A Child Welfare Ombudsman may attend an adoption



1 hearing related to a juvenile case under the Arkansas Juvenile Code of 1989,
 2 § 9-27-301 et seq.

3 (b) However, a court may exclude the Child
 4 Welfare Ombudsman from an adoption hearing if:

5 (1) It is in the best interest of the
 6 child; or

7 (2) The reason for the exclusion is
 8 based on the authority of the court under the Arkansas Rules of Civil
 9 Procedure or the Arkansas Rules of Evidence.

10 (ii) Unless otherwise allowed by law, the Child
 11 Welfare Ombudsman shall not disclose information that he or she obtains
 12 through his or her attendance at an adoption hearing held under this
 13 subchapter.

14
 15 SECTION 3. Arkansas Code § 9-27-325(i)(1), concerning hearings held
 16 under the Arkansas Juvenile Code of 1989, is amended to read as follows:

17 (i)(1)(A) All hearings involving allegations and reports of child
 18 maltreatment and all hearings involving cases of children in foster care
 19 shall be closed.

20 (B)(i)(a) A Child Welfare Ombudsman may attend a hearing
 21 held under this subchapter, including a closed hearing.

22 (b) However, a court may exclude the Child
 23 Welfare Ombudsman from a hearing if:

24 (1) It is in the best interest of the
 25 child; or

26 (2) The reason for the exclusion is
 27 based on the authority of the court under the Arkansas Rules of Civil
 28 Procedure or the Arkansas Rules of Evidence.

29 (ii) Unless otherwise allowed by law, the Child
 30 Welfare Ombudsman shall not disclose information that he or she obtains
 31 through his or her attendance at a hearing held under this subchapter.

32
 33 SECTION 4. Arkansas Code § 9-28-407(h)(1), concerning licenses
 34 required and issued under the Child Welfare Agency Licensing Act, is amended
 35 to add an additional subdivision to read as follows:

36 (Y) To a Child Welfare Ombudsman.

1 SECTION 5. Arkansas Code § 12-18-402(b), concerning mandated reporters
2 under the Child Maltreatment Act, is amended to add an additional subdivision
3 to read as follows:

4 (41) A Child Welfare Ombudsman.

5
6 SECTION 6. Arkansas Code § 12-18-620(e), concerning the release of
7 information on a pending investigation under the Child Maltreatment Act, is
8 amended to add an additional subdivision to read as follows:

9 (13) A Child Welfare Ombudsman.

10
11 SECTION 7. Arkansas Code § 12-18-710(e), concerning the release of
12 information on a true investigative determination pending due process under
13 the Child Maltreatment Act, is amended to add an additional subdivision to
14 read as follows:

15 (14) A Child Welfare Ombudsman.

16
17 SECTION 8. Arkansas Code § 12-18-909(g), concerning the availability
18 of true reports of child maltreatment from the Child Maltreatment Central
19 Registry under the Child Maltreatment Act, is amended to add an additional
20 subdivision to read as follows:

21 (26) A Child Welfare Ombudsman.

22
23 SECTION 9. Arkansas Code § 12-18-910(f), concerning the availability
24 of screened-out and unsubstantiated reports under the Child Maltreatment Act,
25 is amended to add an additional subdivision to read as follows:

26 (16) A Child Welfare Ombudsman.

27
28 SECTION 10. Arkansas Code Title 20, Chapter 82, Subchapter 2, is
29 amended to add an additional section to read as follows:

30 20-82-211. Child Welfare Ombudsman Division – Creation – Powers and
31 duties.

32 (a)(1) There is created within the Arkansas Child Abuse/Rape/Domestic
33 Violence Commission the Child Welfare Ombudsman Division.

34 (2) The Executive Director of the Arkansas Child
35 Abuse/Rape/Domestic Violence Commission shall:

36 (A) Hire a Child Welfare Ombudsman; and

1 (B) Supervise the Child Welfare Ombudsman.

2 (3) The Child Welfare Ombudsman shall not be supervised by the
3 members of the Arkansas Child Abuse/Rape/Domestic Violence Commission.

4 (4) The minimum qualifications for the Child Welfare Ombudsman
5 shall include:

6 (A) A master's degree in:

7 (i) Social work;

8 (ii) Psychology; or

9 (iii) A related field; or

10 (B) Comparable experience in one (1) or more programs that
11 serve juveniles and families who are involved in dependency-neglect
12 proceedings.

13 (5) The Child Welfare Ombudsman shall have the following powers
14 and duties:

15 (A) The duty to work independently of the:

16 (i) Department of Human Services;

17 (ii) Administrative Office of the Courts;

18 (iii) Commission for Parent Counsel;

19 (iv) Attorney Ad Litem Program;

20 (v) Arkansas Public Defender Commission; and

21 (vi) Arkansas Court Appointed Special Advocates
22 program;

23 (B) The duty to communicate with a:

24 (i) Juvenile after the approval of, and subject to
25 the conditions set by, the:

26 (a) Dependency-neglect attorney ad litem
27 appointed to the juvenile; or

28 (b) Attorney for the juvenile if the juvenile
29 has an attorney other than a dependency-neglect attorney ad litem; and

30 (ii) Parent of a juvenile after the approval of, and
31 subject to the conditions set by, the attorney for the parent if the parent
32 has an attorney;

33 (C) The authority to access a record as allowed by law;

34 (D) The duty to review and recommend necessary changes to
35 procedures under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., the
36 Child Maltreatment Act, § 12-18-101 et seq., and other laws relevant to the

1 operation of the child welfare system that are applicable to the:

- 2 (i) Department of Human Services;
- 3 (ii) Department of Arkansas State Police;
- 4 (iii) Administrative Office of the Courts;
- 5 (iv) Attorney Ad Litem Program;
- 6 (v) Commission for Parent Counsel;
- 7 (vi) Arkansas Public Defender Commission; and
- 8 (vii) Arkansas Court Appointed Special Advocates
- 9 Program;

10 (E) The duty to review an issue or concern related to a
11 court case or investigation of a juvenile if it appears that the juvenile,
12 parent of the juvenile, foster parent of the juvenile, relative of the
13 juvenile, or fictive kin of the juvenile may need assistance from the child
14 welfare ombudsman;

15 (F) The duty to provide training and technical assistance
16 if a request is received from:

- 17 (i) A member of the child welfare system;
- 18 (ii) The General Assembly; or
- 19 (iii) The office of the Governor;

20 (G) The duty to make the public aware of the Child Welfare
21 Ombudsman Division and the contact information for the Child Welfare
22 Ombudsman Division; and

23 (H)(i) The duty to prepare an annual report concerning the
24 work of the Child Welfare Ombudsman Division, the operation of the child
25 welfare system, and any recommendations related to the operation of the child
26 welfare system.

27 (ii) The Child Welfare Ombudsman Division shall
28 submit the annual report to the:

- 29 (a) Governor;
- 30 (b) Director of the Department of Human
- 31 Services;
- 32 (c) Director of the Department of Arkansas
- 33 State Police;
- 34 (d) Director of the Division of Children and
- 35 Family Services of the Department of Human Services;
- 36 (e) Director of the Administrative Office of

1 the Courts;

2 (f) Commission for Parent Counsel;

3 (g) House Committee on Aging, Children and
4 Youth, Legislative and Military Affairs; and

5 (h) Senate Interim Committee on Children and
6 Youth.

7 (iii) The annual report shall not contain
8 information that would identify a juvenile or the family of a juvenile.

9 (b) As used in this section, "juvenile" means a juvenile as defined in
10 § 9-27-303(32) who is:

11 (1) A respondent in a dependency-neglect proceeding held under
12 the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.; or

13 (2) The subject of a child maltreatment investigation under the
14 Child Maltreatment Act, § 12-18-101 et seq.

15 (c) A record maintained by the Child Welfare Ombudsman Division that
16 pertains to a court case or investigation of a juvenile who is the subject of
17 work performed by the Child Welfare Ombudsman Division is confidential and
18 shall not be disclosed except as permitted under § 9-28-407.

19
20 SECTION 11. EMERGENCY CLAUSE. It is found and determined by the
21 General Assembly of the State of Arkansas that some juveniles in Arkansas may
22 be unaware of their rights under the Arkansas Juvenile Code of 1989, § 9-27-
23 301 et seq., the Child Maltreatment Act, § 12-18-101 et seq., and other
24 applicable law; that some individuals and entities that are responsible for
25 the welfare of a juvenile may be unaware of the rights of the juvenile under
26 the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., the Child
27 Maltreatment Act, § 12-18-101 et seq., and other applicable law; that the
28 creation of the Child Welfare Ombudsman Division within the Arkansas Child
29 Abuse/Rape/Domestic Violence Commission will help increase awareness of a
30 juvenile's legal rights; that independent oversight of the child welfare
31 system in Arkansas is more than likely to result in recommendations that will
32 further improve the procedures and operations of the child welfare system;
33 and that this act is necessary for the preservation of the public peace,
34 health, and safety. Therefore, an emergency is declared to exist, and this
35 act being necessary for the preservation of the public peace, health, and
36 safety shall become effective on July 1, 2019.