

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

SENATE BILL 733

4
5 By: Senator Madison
6 By: Representative Powers

For An Act To Be Entitled

7
8
9 AN ACT TO AMEND THE CHILD MALTREATMENT ACT; AND FOR
10 OTHER PURPOSES.

Subtitle

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13
14 TO AMEND THE CHILD MALTREATMENT ACT.

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. Arkansas Code § 12-18-102(3)(B), concerning the purpose of
20 the Child Maltreatment Act, is amended to read as follows:

21 (B) Place a child ~~who is in~~ whose health or physical well-being
22 is in immediate danger ~~of severe maltreatment~~ in a safe environment;

23
24 SECTION 2. Arkansas Code § 12-18-103(2)(C), concerning the definition
25 of "abuse", is amended to read as follows:

26 (C)(i) "Abuse" ~~shall~~ does not include physical discipline
27 of a child when it is reasonable and moderate and is inflicted by a parent or
28 guardian for purposes of restraining or correcting the child.

29 (ii) "Abuse" ~~shall~~ does not include when a child
30 suffers transient pain or minor temporary marks as the result of an
31 appropriate restraint if:

32 (a) The person exercising the restraint is:
33 (1) ~~an~~ An employee of ~~an~~ a child welfare
34 agency licensed or exempted from licensure under the Child Welfare Agency
35 Licensing Act, § 9-28-401 et seq.; and

36 (2) Acting in his or her official



1 capacity while on duty at a child welfare agency licensed or exempted from
2 licensure under the Child Welfare Agency Licensing Act, § 9-28-401 et seq.;

3 (b) The agency has policy and procedures
4 regarding restraints;

5 (c) No other alternative exists to control the
6 child except for a restraint;

7 (d) The child is in danger or hurting himself
8 or herself or others;

9 (e) The person exercising the restraint has
10 been trained in properly restraining children, de-escalation, and conflict
11 resolution techniques;

12 (f) The restraint is for a reasonable period
13 of time; and

14 (g) The restraint is in conformity with
15 training and agency policy and procedures.

16 (iii) Reasonable and moderate physical discipline
17 inflicted by a parent or guardian ~~shall~~ does not include any act that is
18 likely to cause and which does cause injury more serious than transient pain
19 or minor temporary marks.

20 (iv) The age, size, and condition of the child and
21 the location of the injury and the frequency or recurrence of injuries shall
22 be considered when determining whether the physical discipline is reasonable
23 or moderate;

24
25 SECTION 3. Arkansas Code § 12-18-103(3), concerning the definition of
26 "caretaker", is amended to read as follows:

27 (3) "Caretaker" means a parent, guardian, custodian, foster
28 parent, or any person ~~ten (10)~~ thirteen (13) years of age or older who is
29 entrusted with a child's care by a parent, guardian, custodian, or foster
30 parent, including, ~~but not limited to~~ without limitation, an agent or
31 employee of a public or private residential home, child care facility, public
32 or private school, or any person responsible for a child's welfare, but
33 excluding the spouse of a minor;

34
35 SECTION 4. Arkansas Code § 12-18-103(18), concerning the definition of
36 "sexual abuse", is amended to read as follows:

- 1 (18) "Sexual abuse" means:
- 2 (A) By a person ~~ten (10)~~ thirteen (13) years of age or
- 3 older to a person younger than eighteen (18) years of age:
- 4 (i) Sexual intercourse, deviate sexual activity, or
- 5 sexual contact by forcible compulsion;
- 6 (ii) Attempted sexual intercourse, deviate sexual
- 7 activity, or sexual contact by forcible compulsion;
- 8 (iii) Indecent exposure; or
- 9 (iv) Forcing the watching of pornography or live
- 10 sexual activity;
- 11 (B) By a person eighteen (18) years of age or older to a
- 12 person not his or her spouse who is younger than ~~sixteen (16)~~ fifteen (15)
- 13 years of age:
- 14 (i) Sexual intercourse, deviate sexual activity, or
- 15 sexual contact; ~~or~~
- 16 (ii) Attempted sexual intercourse, deviate sexual
- 17 activity, or sexual contact; or
- 18 (iii) Solicitation of sexual intercourse, deviate
- 19 sexual activity, or sexual contact;
- 20 (C) By a person twenty (20) years of age or older to a
- 21 person not his or her spouse who is younger than sixteen (16) years of age:
- 22 (i) Sexual intercourse, deviate sexual activity, or
- 23 sexual contact;
- 24 (ii) Attempted sexual intercourse, deviate sexual
- 25 activity, or sexual contact; or
- 26 (iii) Solicitation of sexual intercourse, deviate
- 27 sexual activity, or sexual contact;
- 28 ~~(C)~~(D) By a caretaker to a person younger than eighteen
- 29 (18) years of age:
- 30 (i) Sexual intercourse, deviate sexual activity, or
- 31 sexual contact;
- 32 (ii) Attempted sexual intercourse, deviate sexual
- 33 activity, or sexual contact;
- 34 (iii) Forcing or encouraging the watching of
- 35 pornography;
- 36 (iv) Forcing, permitting, or encouraging the

1 watching of live sexual activity;

2 (v) Forcing the listening to a phone sex line; or

3 (vi) An act of voyeurism; or

4 ~~(D)~~(E) By a person younger than ~~ten (10)~~ thirteen (13)
5 years of age to a person younger than eighteen (18) years of age:

6 (i) Sexual intercourse, deviate sexual activity, or
7 sexual contact by forcible compulsion; or

8 (ii) Attempted sexual intercourse, deviate sexual
9 activity, or sexual contact by forcible compulsion;

10
11 SECTION 5. Arkansas Code § 12-18-103(22), concerning the definition of
12 "underaged juvenile aggressor", is amended to read as follows:

13 (22) "Underaged juvenile ~~aggressor~~ offender" means any child
14 younger than ~~ten (10)~~ thirteen (13) years of age for whom a report of sexual
15 abuse has been determined to be true for sexual abuse to another child; and
16

17 SECTION 6. Arkansas Code § 12-18-303(b), concerning the minimum
18 requirements for a report to be accepted, is amended to read as follows:

19 (b)(1) If the alleged offender resides in another state and the
20 incident occurred in another state or country, the Child Abuse Hotline shall
21 ~~screen-out~~ document receipt of the report, transfer the report to the Child
22 Abuse Hotline of the state or country where the alleged offender resides or
23 the incident occurred, and, if child protection is an issue, forward the
24 ~~screened-out~~ report to the Department of Human Services or the equivalent
25 governmental agency of the state or country where the alleged offender
26 resides.

27 (2) Any record of receipt of a report under subdivision (b)(1)
28 of this section may be used only within the department for purposes of
29 administration of the program and shall not be disclosed except to:

30 (A) The prosecuting attorney; or

31 (B) A law enforcement agency.

32 (3) Data identifying a reporter under subdivision (b)(1) of this
33 section shall be maintained under § 12-18-502.

34
35 SECTION 7. Arkansas Code Title 12, Chapter 18, Subchapter 3 is amended
36 to add an additional section to read as follows:

1 12-18-310. Referrals on children born with Fetal Alcohol Spectrum
 2 Disorder.

3 (a) All health care providers involved in the delivery or care of
 4 infants shall:

5 (1) Contact the Department of Human Services regarding an infant
 6 born and affected with a Fetal Alcohol Spectrum Disorder; and

7 (2) Share all pertinent information, including health
 8 information, with the department regarding an infant born and affected with a
 9 Fetal Alcohol Spectrum Disorder.

10 (b) The department shall accept referrals, calls, and other
 11 communications from health care providers involved in the delivery or care of
 12 infants born and affected with a Fetal Alcohol Spectrum Disorder.

13 (c) The department shall develop a plan of safe care for infants
 14 affected with a Fetal Alcohol Spectrum Disorder.

15
 16 SECTION 8. Arkansas Code § 12-18-402(b)(35) and (36), concerning
 17 mandated reporters, are amended to add an additional subdivision to read as
 18 follows:

19 (35) A victim/witness coordinator; ~~or~~

20 (36) A victim assistance professional or victim assistance
 21 volunteer~~;~~ or

22 (37) An employee of the Crimes Against Children Division of the
 23 Department of Arkansas State Police.

24
 25 SECTION 9. Arkansas Code § 12-18-503(6) and (7), concerning
 26 notification, are amended to add an additional subdivision to read as
 27 follows:

28 (6) The attorney ad litem and ~~Court-Appointed Special Advocate~~
 29 court-appointed special advocate for any child in foster care when the
 30 alleged juvenile offender or underaged juvenile ~~aggressor~~ offender is placed
 31 in the same placement as the attorney ad litem or ~~Court-Appointed Special~~
 32 ~~Advocates'~~ court-appointed special advocate's client; ~~and~~

33 (7) The ~~appropriate~~ responsible multidisciplinary team~~;~~ and

34 (8) A mandated reporter, if the mandated reporter made the
 35 initial notification of suspected child maltreatment and the notification has
 36 been accepted for investigation.

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SECTION 10. Arkansas Code § 12-18-601(d)(1), concerning an assignment to an investigative agency, is amended to read as follows:

(d)(1) The Department of Human Services may develop and implement triage procedures for ~~screening out~~ accepting and documenting reports of child maltreatment of a child not at risk of imminent harm if an appropriate referral is made to a community organization or voluntary preventive service.

SECTION 11. Arkansas Code § 12-18-602(b)(2)(A), concerning initiation of the investigation, is amended to read as follows:

(A) The allegation is severe maltreatment, excluding an allegation of sexual abuse if the most recent allegation of sexual abuse was more than one (1) year ago ~~and or~~ or the alleged victim does not currently have contact with the alleged offender; or

SECTION 12. Arkansas Code § 12-18-610 is amended to read as follows:
12-18-610. Access to the child's school records.

(a) A person conducting an investigation under this chapter shall be allowed access to the child's public and private school records during the course of the child maltreatment investigation.

(b) Upon request, a public or private school shall provide the child's records free of charge to the person conducting the investigation.

SECTION 13. Arkansas Code § 12-18-620(e)(4), concerning release of information on pending investigations, is amended to read as follows:

(4) The ~~appropriate~~ responsible multidisciplinary team;

SECTION 14. Arkansas Code § 12-18-702(2)(C), concerning investigative determination, is amended to read as follows:

(C) A determination of true but exempted, which means that the offender's name shall not be placed in the Child Maltreatment Central Registry, shall be entered if:

(i) A parent practicing his or her religious beliefs does not, for that reason alone, provide medical treatment for a child, but in lieu of treatment the child is being furnished with treatment by spiritual means alone, through prayer, in accordance with a recognized religious method

1 of healing by an accredited practitioner;

2 (ii) The offender is an underaged juvenile ~~aggressor~~
3 offender; ~~or~~

4 (iii) The report was true for neglect as defined
5 under § 12-18-103(13)(B); or

6 (iv) The report was true for sexual abuse by an
7 offender at least thirteen (13) years of age and less than sixteen (16) years
8 of age and the offender has not been adjudicated delinquent or has not
9 pleaded guilty, nolo contendere, or been found guilty of an offense on the
10 same set of facts as contained in the report; or

11
12 SECTION 15. Arkansas Code §§ 12-18-703 - 12-18-705 are amended to
13 read as follows:

14 12-18-703. Notice generally.

15 (a) The Department of Human Services shall notify each alleged
16 offender of the child maltreatment investigative determination whether true
17 or unsubstantiated.

18 (b)(1) In every case in which a report is determined to be true, the
19 department shall notify the alleged offender of the investigative
20 determination by certified mail, restricted delivery, or process server.

21 (2) Failure of service under subdivision (b)(1) of this section
22 is not be deemed failure of notice if the alleged offender has actual notice.

23
24 12-18-704. Notice if the investigative determination is true but
25 exempted and the alleged offender is ~~under ten years of age~~ a child.

26 If the investigative determination of the report was determined true
27 but exempted under § 12-18-702(2)(C)(ii) or § 12-18-702(2)(C)(iv), and the
28 alleged offender is a child ~~under ten (10) years of age~~ at the time the act
29 or omission occurred, the Department of Human Services shall notify the legal
30 parents and legal guardians of the investigative determination and that the
31 child's name shall not be placed in the Child Maltreatment Central Registry.

32
33 12-18-705. Notice if the alleged offender is ~~ten~~ under eighteen years
34 of age ~~or older~~.

35 (a) If the report was determined true and the alleged offender is ~~a~~
36 ~~child ten (10)~~ under eighteen (18) years of age ~~or older~~ at the time the act

1 or omission occurred a notice shall be given as provided in this section.

2 (b) The notice under this section shall be provided as follows:

3 (1) If the ~~child~~ alleged offender is in foster care, the
 4 Department of Human Services shall notify the ~~child's~~ alleged offender's
 5 counsel and the legal parents, legal guardians, and current foster parents of
 6 the alleged offender; or

7 (2) If the ~~child~~ alleged offender is not in foster care, the
 8 department shall notify the legal parents and legal guardians of the alleged
 9 offender.

10 (c) The notice under this section shall include the following:

11 (1) The investigative determination, excluding data that would
 12 identify the person who made the report to the Child Abuse Hotline;

13 (2) A statement that the matter has been referred for an
 14 automatic administrative hearing that may ~~only~~ be waived only by the alleged
 15 ~~juvenile~~ offender or his or her parent or legal guardian in writing;

16 (3) The potential consequences to the alleged ~~juvenile~~ offender
 17 if the ~~juvenile~~ alleged offender's name is placed in the Child Maltreatment
 18 Central Registry;

19 (4) A statement that the ~~person~~ alleged offender has a right to
 20 have an attorney and if the person cannot afford an attorney to contact Legal
 21 Services;

22 (5) A statement that if the ~~person's~~ alleged offender's name is
 23 placed on the registry, the ~~person's~~ alleged offender's name may be
 24 automatically removed after one (1) year or the ~~person~~ alleged offender may
 25 be able to petition for removal after one (1) year, depending on the finding;

26 (6) A statement that the administrative hearing may take place
 27 in person if requested by the alleged ~~juvenile~~ offender, the alleged ~~juvenile~~
 28 offender's parent or guardian, or the alleged offender's attorney within
 29 thirty (30) days from the date that the alleged ~~juvenile~~ offender receives
 30 notification under this section; and

31 (7) The name of the person making the notification ~~to the~~
 32 ~~alleged juvenile offender~~, his or her title or position, and current contact
 33 information.

34
 35 SECTION 16. Arkansas Code § 12-18-708 is amended to read as follows:
 36 12-18-708. Miscellaneous notice requirements.

1 (a) ~~Notification of an~~ The Department of Human Services shall confirm
2 an investigative determination ~~under this chapter shall be provided to~~ upon
3 request from the following:

4 (1) The ~~appropriate~~ responsible multidisciplinary team;

5 (2) The juvenile division of circuit court ~~judge~~ if the victim
6 or offender has an open dependency-neglect or family in need of services
7 case;

8 (3) The attorney ad litem for any child who is named as the
9 victim or offender;

10 (4) ~~The Court Appointed Special Advocate~~ court-appointed special
11 advocate for any child named as the alleged victim or offender;

12 (5) Any licensing or registering authority to the extent
13 necessary to carry out its official responsibilities;

14 (6) Any department division director or facility director
15 receiving notice of a Child Abuse Hotline report ~~pursuant to~~ under this
16 chapter;

17 (7) Any facility director receiving notice of a Child Abuse
18 Hotline report ~~pursuant to~~ under this chapter;

19 (8) ~~The legal parents, legal guardians, and current foster~~
20 ~~parents of any child in foster care named as an alleged victim~~ The attorney
21 ad litem and court-appointed special advocate volunteer of all other children
22 in the same foster home if the child maltreatment occurred in a foster home;
23 and

24 (9) The attorney ad litem and ~~Court Appointed Special Advocate~~
25 court-appointed special advocate volunteer ~~of all other children in the same~~
26 ~~foster home if the child maltreatment occurred in a foster home~~ for any child
27 in foster care when the alleged juvenile offender or underaged juvenile
28 offender is placed in the same placement as the attorney ad litem or court-
29 appointed special advocate's client.

30 (b) ~~If the investigative determination is unsubstantiated, the~~
31 ~~Department of Human Services shall notify the mandated reporter who made the~~
32 ~~underlying report.~~

33 ~~(e)~~ If the investigative determination is true, notification of the
34 investigative determination shall be provided to the school where the victim
35 child is enrolled. However, the name of the alleged offender shall not be
36 identified.

1 (c) The department may notify the persons or entities listed in
 2 subsection (a) of this section of the investigative determination, if the
 3 department determines the notification is necessary to ensure the health or
 4 safety of the child.

5
 6 SECTION 17. Arkansas Code § 12-18-709, concerning confidentiality, is
 7 amended to add an additional subsection to read as follows:

8 (f) The department shall notify the alleged offender’s legal parents,
 9 legal guardians, and foster parents of the investigative determination if
 10 the:

- 11 (1) Investigative determination is unsubstantiated; and
- 12 (2) Alleged offender is:
 - 13 (A) Under eighteen (18) years of age; and
 - 14 (B) In foster care.

15
 16 SECTION 18. Arkansas Code § 12-18-710(d) and (e), concerning the
 17 release of information on true investigative determinations pending due
 18 process, are amended to read as follows:

19 (d) The department may provide information, including protected health
 20 information, to a person or agency that provides services such as medical
 21 examination of, an assessment interview with, or diagnosis of, care for,
 22 treatment of, or supervision of a victim of maltreatment, a juvenile
 23 offender, or an underaged juvenile ~~aggressor~~ offender.

24 (e) Information on a completed investigation, including protected
 25 health information, pending due process shall be released upon request to:

- 26 (1) The alleged offender;
- 27 (2) The department;
- 28 (3) Law enforcement;
- 29 (4) The prosecuting attorney;
- 30 (5) The ~~appropriate~~ responsible multidisciplinary team;
- 31 (6) Attorney ad litem for the victim or offender;
- 32 (7) ~~Court Appointed Special Advocate~~ Court-appointed special
 33 advocate for the victim or offender;
- 34 (8) Any licensing or registering authority to the extent
 35 necessary to carry out its official responsibilities;
- 36 (9) Any department division director or facility director

1 receiving notice of a Child Abuse Hotline report ~~pursuant to~~ under this
 2 chapter;

3 (10) Any facility director receiving notice of a Child Abuse
 4 Hotline report ~~pursuant to~~ under this chapter; and

5 (11)(A) Acting in their official capacities, individual United
 6 States and Arkansas senators and representatives and their authorized staff
 7 members but only if they agree not to permit any redisclosure of the
 8 information.

9 (B) However, disclosure shall not be made to any committee
 10 or legislative body.

11

12 SECTION 19. Arkansas Code § 12-18-801(a)(1), concerning time to
 13 complete administrative hearings, is amended to read as follows:

14 (a)(1)(A) The administrative hearing process under this chapter must
 15 be completed within one hundred eighty (180) days from the date of the
 16 receipt of the request for a hearing, or the administrative law judge shall
 17 enter an order overturning the investigative agency's investigative
 18 determination of true.

19 (B) However, delays in completing the administrative
 20 hearing that are attributable to ~~the petitioner~~ either party shall not count
 21 against the limit of one hundred eighty (180) days if the administrative law
 22 judge determines that good cause for the delay is shown by the party
 23 requesting the delay and the request for delay is made in writing and
 24 delivered to the Office of Appeals and Hearings of the Department of Human
 25 Services and all other parties.

26

27 SECTION 20. Arkansas Code § 12-18-804 is amended to read as follows:
 28 12-18-804. Defenses and affirmative defenses.

29 For any act or omission of child maltreatment that would be a criminal
 30 offense or an act of delinquency, any defense or affirmative defense,
 31 including the burden of proof regarding the affirmative defense, that would
 32 ~~be applicable~~ apply to the criminal offense or delinquent act is also
 33 cognizable in a child maltreatment proceeding with the exception of:

34 (1) A statute of limitation;

35 (2) Lack of capacity as a result of mental disease or defect
 36 under § 5-2-312; and

1 (3) Affirmative defenses under §§ 5-1-112-- 5-1-114.

2
3 SECTION 21. Arkansas Code § 12-18-809 is amended to read as follows:
4 12-18-809. Confidentiality.

5 (a) An administrative hearing decision and the hearing record,
6 including all exhibits, under this chapter ~~and all exhibits submitted at the~~
7 ~~hearing~~ are confidential and shall remain confidential upon the filing of an
8 appeal with a circuit court or an appellate court.

9 (b) An administrative hearing decision and the hearing record,
10 including all exhibits, under this chapter that ~~upholds~~ uphold the agency
11 investigative determination of true may be used or disclosed only as provided
12 in this chapter.

13 (c) An administrative hearing decision and the hearing record,
14 including all exhibits, under this chapter that ~~overturns~~ overturn the agency
15 investigative determination of true may be used or disclosed only as provided
16 in this chapter.

17
18 SECTION 22. Arkansas Code § 12-18-813 is amended to read as follows:
19 12-18-813. Notice of investigative determination upon satisfaction of
20 due process.

21 (a)(1) Due process has been satisfied when:

22 (A) The alleged offender eighteen (18) years of age or
23 older at the time the act or omission occurred was provided written notice of
24 the true investigative determination as required by this chapter but failed
25 to timely request an administrative hearing;

26 (B) The alleged offender eighteen (18) years of age or
27 older at the time the act or omission occurred timely requested an
28 administrative hearing and a decision has been issued by the administrative
29 law judge; or

30 (C) The alleged offender was a child at the time the act
31 or omission occurred and the child or his or her legal parent or legal
32 guardian waived the administrative hearing or the administrative law judge
33 issued a decision.

34 (2) Upon satisfaction of due process, if the investigative
35 determination is true, the alleged offender's name shall be placed in the
36 Child Maltreatment Central Registry.

1 (b) ~~If the person or agency making the initial notification of~~
2 ~~suspected child maltreatment is a mandated reporter, the Department of Human~~
3 ~~Services shall provide to the mandated reporter the following information:~~

- 4 ~~(1) The investigative determination; and~~
- 5 ~~(2) Services offered and provided.~~

6 (e)(1) Upon satisfaction of due process and if the investigative
7 determination is true, the ~~department~~ Department of Human Services shall
8 provide the local educational agency, specifically the school counselor at
9 the school the maltreated child attends, a report including the name and
10 relationship of the offender to the maltreated child and the services offered
11 or provided by the department to the child.

12 (2) Upon completion of due process, the department shall provide
13 the local educational agency, specifically the school counselor at the school
14 the maltreated child attends, a report indicating the department's true
15 investigative determination on any child ten (10) years of age or older who
16 is named as the offender in a true report and the services offered or
17 provided by the department to the juvenile offender.

18 (3) Any local educational agency receiving information under
19 this section from the department shall make this information, if it is a true
20 report, confidential and a part of the child's permanent educational record
21 and shall treat information under this section as educational records are
22 treated under the Family Educational Rights and Privacy Act, 20 U.S.C. §
23 1232g.

24 ~~(d)~~(c)(1) Upon satisfaction of due process and if the investigative
25 determination is true, if the offender is engaged in child-related activities
26 or employment and the department has determined that children under the care
27 of the offender appear to be at risk of maltreatment by the offender, the
28 department may notify the following of the investigative determination:

- 29 (A) The offender's employer;
- 30 (B) A school superintendent, principal, or a person in an
31 equivalent position where the offender is employed;
- 32 (C) A person in charge of a paid or volunteer activity;
- 33 and
- 34 (D) Any licensing or registering authority to the extent
35 necessary to carry out its official responsibilities.

36 (2) The department shall promulgate rules that shall ensure that

1 notification required under this subsection is specifically approved by a
 2 responsible manager in the department before the notification is made.

3 (3) If the department later determines that there is not a
 4 preponderance of the evidence indicating that children under the care of the
 5 alleged offender appear to be at risk, the department shall immediately
 6 notify the previously notified person or entity of that information.

7 ~~(e)~~(d) Upon satisfaction of due process, if the victim or offender is
 8 in foster care, notification of the investigative determination shall be
 9 provided to:

10 (1) The legal parents, legal guardians, and current foster
 11 parents of the victim; and

12 (2) The attorney ad litem and ~~Court Appointed Special Advocate~~
 13 court-appointed special advocate volunteer ~~of any other children in the same~~
 14 ~~foster home if the maltreatment occurred in the foster home~~ for the victim or
 15 offender.

16 ~~(f)~~(e) Upon satisfaction of due process, notification of the
 17 investigative determination shall be provided to the following:

18 (1) All subjects of the report; and

19 ~~(2) The juvenile division of circuit court if the child has an~~
 20 ~~open dependency neglect or family in need of services case and the child was~~
 21 ~~named as a victim or offender;~~

22 ~~(3) The attorney ad litem;~~

23 ~~(4) Any person appointed by the court as the Court Appointed~~
 24 ~~Special Advocate volunteer;~~

25 ~~(5) The appropriate multidisciplinary team;~~

26 ~~(6) A child safety center if involved in the investigation;~~

27 ~~(7) Law enforcement;~~

28 ~~(8) The prosecuting attorney in cases of severe maltreatment;~~

29 ~~(9) Any licensing or registering authority to the extent~~
 30 ~~necessary to carry out its official responsibilities;~~

31 ~~(10) Any department division director or facility director~~
 32 ~~receiving notice of a Child Abuse Hotline report pursuant to this chapter;~~

33 ~~(11) Any facility director receiving notice of a Child Abuse~~
 34 ~~Hotline report pursuant to this chapter; and~~

35 ~~(12)~~ As required by § 21-15-110, the employer of any offender if
 36 the offender is in a designated position with a state agency.

1 (f) Upon satisfaction of due process, the department shall confirm the
 2 investigative determination to the following, upon request:

3 (1) The responsible multidisciplinary team;

4 (2) The juvenile division of circuit court, if the victim or
 5 offender has an open dependency-neglect or family in need of services case;

6 (3) The attorney ad litem for a child who is named as the victim
 7 or offender;

8 (4) The court-appointed special advocate volunteer for a child
 9 named as the alleged victim or offender;

10 (5) Any licensing or registering authority if it is necessary to
 11 carry out its official responsibilities;

12 (6) Any department division director or facility director
 13 receiving notice of a Child Abuse Hotline report under this subchapter;

14 (7) The attorney ad litem and court-appointed special advocate
 15 volunteer of all other children in the same foster home if the child
 16 maltreatment occurred in a foster home;

17 (8) The attorney ad litem and court-appointed special advocate
 18 volunteer for any child in foster care when the alleged offender or underaged
 19 juvenile offender is placed in the same placement as the attorney ad litem or
 20 court-appointed special advocate volunteer's client;

21 (9) A child safety center if involved in the investigation;

22 (10) Law enforcement; and

23 (11) The prosecuting attorney in cases of severe maltreatment.

24 (g) Upon satisfaction of due process, the department may notify the
 25 persons or entities listed in subsection (f) of this section of the
 26 investigative determination if the department determines that the
 27 notification is necessary to accomplish the purposes of § 12-18-102.

28
 29 SECTION 23. Arkansas Code § 12-18-909(g)(11), concerning the
 30 availability of true reports of child maltreatment from the central registry,
 31 is amended to read as follows:

32 (11)(A) A grand jury ~~or court~~ upon a finding that information in
 33 the record is necessary for the determination of an issue before the ~~court or~~
 34 grand jury.

35 (B)(i) ~~The grand jury or court may disclose it to parties~~
 36 ~~to a legal proceeding upon a finding that the report is necessary for the~~

1 ~~presentation of a party's complaint or defense and under such terms or~~
 2 ~~protective order that the court orders;~~ A court in a criminal case upon
 3 finding that the information in the record is necessary for the determination
 4 of an issue before the court.

5 (ii) The court may disclose the report to parties
 6 under the terms or a protective order issued by the court.

7 (C)(i) A court in a child custody or similar civil case
 8 upon finding that the information in the record is necessary for the
 9 determination of a health or safety issue concerning a child before the
 10 court.

11 (ii) The court may disclose the report to the
 12 parties under the terms or a protective order issued by the court.

13
 14 SECTION 24. Arkansas Code § 12-18-910(f)(3), concerning the
 15 availability of screened-out and unsubstantiated reports, is amended to read
 16 as follows:

17 (3)(A) A grand jury ~~or court~~ upon a finding that information in
 18 the record is necessary for the determination of an issue before ~~the court or~~
 19 a grand jury.

20 ~~(B)(i) The grand jury or court may disclose it to parties~~
 21 ~~to a legal proceeding upon a finding that the report is necessary for the~~
 22 ~~presentation of a party's complaint or defense and under such terms or~~
 23 ~~protective order that the court orders;~~ A court in a criminal case upon
 24 finding that the information in the record is necessary for the determination
 25 of an issue before the court.

26 (ii) The court may disclose the report to parties
 27 under the terms or a protective order issued by the court.

28 (C)(i) A court in a child custody or similar civil case
 29 upon finding that the information in the record is necessary for the
 30 determination of a health or safety issue concerning a child before the
 31 court.

32 (ii) The court may disclose the report to the
 33 parties under the terms or a protective order issued by the court.

34
 35 SECTION 25. Arkansas Code § 12-18-1001(a)(3), concerning protective
 36 custody, is amended to read as follows:

1 (3) Circumstances or conditions of the child are such that
2 continuing in his or her place of residence or in the care and custody of the
3 parent, guardian, custodian, or caretaker presents an immediate danger of
4 ~~severe maltreatment~~ to the health or physical well-being of the child.

5
6 SECTION 26. Arkansas Code § 12-18-1010 is amended to read as follows:

7 12-18-1010. When a child maltreatment investigation is determined to
8 be true or true but exempted.

9 (a) If an investigation under this chapter is determined to be true or
10 true but exempted under § 12-18-702(2)(C), the Department of Human Services
11 may open a protective services case.

12 (b)(1) If the department opens a protective services case, it shall
13 provide services to the family in an effort to prevent additional
14 maltreatment to the child or the removal of the child from the home.

15 (2) The services shall be relevant to the needs of the family.

16 (c) If at any time during the protective services case the department
17 determines that the child cannot safely remain at home, it shall take steps
18 to remove the child under custody as outlined in this chapter or ~~pursuant to~~
19 under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.

20 (d) Upon request, the department shall be provided at no cost a copy
21 of the child's public and private school records if the department has an
22 open protective services case.

23 (e) Upon request, the department shall be provided a copy of the
24 results of radiology procedures, videotapes, photographs, or medical records
25 on a child if the department has an open protective services case.

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28 **APPROVED: 04/04/2011**
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