

Act 863 of the 1989 Regular Session.

Act 863

HB1593

By: Representative Pollan

"AN ACT TO ESTABLISH SUBPOENA AUTHORITY AMONG THE POWERS OF THE CHIEF COUNSEL OF THE DEPARTMENT OF HUMAN SERVICES WHEN DETERMINING ADMINISTRATIVE APPEALS OF DECISIONS RELATING TO APPLICATIONS FOR AMENDMENT OF INFORMATION CONTAINED IN THE REPORT OF AN INVESTIGATION OF CHILD ABUSE OR NEGLECT MADE PURSUANT TO ARKANSAS CODE 12-12-501 ET SEQ.; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code Annotated 12-12-516(b) (1) is hereby amended to read as follows:

"(b) (1) Records of all reports of abuse, neglect, sexual abuse, or exploitation shall be retained by the Child Abuse and Neglect Central Registry in accordance with the terms of this subchapter and it shall be sealed when the youngest minor victim-subject of the report reaches the age of twenty-one (21) years. Once sealed, the records shall not otherwise be available unless the

Department, upon notice to the subject of the report gives approval for an appropriate reason. Reports which were determined to be unfounded shall be expunged after three (3) years. The Department may, upon written application of an alleged perpetrator or an adult subject of a report, amend information contained in a report in order to correct error or false statement. The Department shall promulgate regulations establishing a procedure for the filing of a request for amendment, for timely initial disposition of such requests within 90 days of the completion of the investigation, and for appeals from unfavorable decisions. When the Department conducts such administrative appeal hearings, the Chief Counsel of the Department is authorized to require the attendance of witnesses and the production of books, records or other documents through the issuance of subpoenas when such testimony or information is necessary to adequately present the position of the Department of Human Services, the investigating protective services agency, or the alleged perpetrator or adult subject of a report. Requests for subpoenas shall be granted by the Chief Counsel of the Department if the testimony or documents desired are considered necessary and material without being unduly repetitious of other available evidence. Subpoenas issued pursuant to the authority of the Chief Counsel of the Department shall be substantially in the following form:

'The State of Arkansas to the Sheriff of _____ County: You are commanded to subpoena _____ (name) _____, _____ (address) _____, to attend a proceeding before the Arkansas Department of Human Services to be held at _____ on the _____ day of _____, 19____, at _____ M., and testify and/or produce the following books, records, or other documents, to-wit: _____

in the matter of _____ (style_of_proceeding) _____ being conducted under the authority of _____.

WITNESS my hand this _____ day of _____, 19 ____.

Chief Counsel, Department of Human Services'

Subpoenas provided for in this section shall be served in the manner as now provided by law and returned and a copy made a kept by the Department of Human Services. The fees and mileage for officers serving the subpoenas and witnesses answering the subpoenas shall be the same as now provided by law. Witnesses duly served with subpoenas issued pursuant to the authority provided in this section who shall refuse to testify or give evidence may be cited on affidavit through application of the Chief Counsel of the Department to the Circuit Court of Pulaski County or any Circuit Court of the state where the subpoena were served. Failure to obey the subpoena may be deemed a contempt with punishment accordingly."

SECTION 2. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. It is hereby found and determined by the Seventy-Seventh General Assembly that the effectiveness of the Department of Human Services to render fair and impartial administrative decisions on appeal proceedings involving requests for amendment to the record of an investigative report involving child abuse or neglect requires the ability to compel the attendance of witnesses and the production of documentary evidence upon which such decisions may be based. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: March 22, 1989
