

1 State of Arkansas *As Engrossed: S3/16/15 S3/18/15*

2 90th General Assembly

A Bill

3 Regular Session, 2015

SENATE BILL 1046

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5 By: Senator J. Woods

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For An Act To Be Entitled

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AN ACT TO AMEND THE LAW CONCERNING REPORTS AND

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INVESTIGATIONS OF CHILD MALTREATMENT; AND FOR OTHER

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PURPOSES.

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Subtitle

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TO AMEND THE LAW CONCERNING REPORTS AND

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INVESTIGATIONS OF CHILD MALTREATMENT.

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

19

20 *SECTION 1. Arkansas Code § 12-18-103(20)(D), concerning the definition*
21 *of sexual abuse, is amended to add an additional subdivision to read as*
22 *follows:*

23

(vii) Solicitation of sexual intercourse, deviate
24 *sexual activity, or sexual contact; or*

25

26 *SECTION 2. Arkansas Code § 12-18-103(22), concerning the definition of*
27 *sexual exploitation, is amended to to read as follows:*

28

(22) "Sexual exploitation" means:

29

(A) The following by a person eighteen (18) years of age
30 *or older to a child who is not his or her spouse:*

31

(A)(i) Allowing, permitting, or encouraging
32 *participation or depiction of the child in:*

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(i)(a) Prostitution;

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(ii)(b) Obscene photography; or

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(iii)(c) Obscene filming; or

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(B)(ii) Obscenely depicting, obscenely posing, or



1 obscenely posturing a the child for any use or purpose;

2 (B) The following by a caretaker to a child:

3 (i) Allowing, permitting, or encouraging
4 participation or depiction of the child in:

5 (a) Prostitution;

6 (b) Obscene photography; or

7 (c) Obscene filming; or

8 (ii) Obscenely depicting, obscenely posing, or
9 obscenely posturing the child for any use or purpose;"

10
11 SECTION 3. Arkansas Code § 12-18-304, concerning qualifying reports of
12 certain types of child maltreatment, is amended to add an additional
13 subsection to read as follows:

14 (f) The Child Abuse Hotline shall not accept a report of giving a
15 child or permitting a child to consume or inhale a poisonous or noxious
16 substance as described in § 12-18-103(3)(A)(vii)(f) unless the alleged
17 incident occurred within the previous three (3) months.

18
19 SECTION 4. Arkansas Code § 12-18-506(a), concerning the report of
20 child abuse when the alleged offender in engaged in activities with children,
21 is amended to read as follows:

22 (a) If the Child Abuse Hotline receives a report naming as an alleged
23 offender a person who is engaged in child-related activities or employment,
24 works with the elderly, an individual with a disability, or an individual
25 with a mental illness, or is a juvenile and the Department of Human Services
26 or the Department of Arkansas State Police has determined that children, the
27 elderly, or individuals with a disability or mental illness under the care of
28 the alleged offender appear to be at risk of maltreatment by the alleged
29 offender, the ~~department~~ Department of Human Services or the Department of
30 Arkansas State Police may notify the following of the report made to the
31 Child Abuse Hotline:

32 (1) The alleged offender's employer;

33 (2) The school superintendent, principal, or a person in an
34 equivalent position where the alleged offender is employed;

35 (3) The person in charge of a paid or volunteer activity; and

36 (4) The appropriate licensing or registering authority to the

1 extent necessary to carry out its official responsibilities.

2
3 SECTION 5. Arkansas Code § 12-18-602(b)(2), concerning the initial
4 investigation of child maltreatment, is amended to read as follows:

5 (2) However, the investigation shall begin within twenty-four
6 (24) hours if:

7 (A) The allegation is severe maltreatment, excluding an
8 allegation of:

9 (i) ~~sexual~~ Sexual abuse if the most recent
10 allegation of sexual abuse was more than one (1) year ago or the alleged
11 victim does not currently have contact with the alleged offender; ~~or~~

12 (ii) Abandonment and the child is in a facility; or

13 (iii) Cuts, welts, bruises, or suffocation if the
14 most recent allegation was more than one (1) year ago and the alleged victim
15 is in the custody of the department; or

16 (B) The allegation is that a child has been subjected to
17 neglect as defined in § 12-18-103(13)(B).

18
19 SECTION 6. Arkansas Code § 12-18-607(4), concerning an investigation
20 of child maltreatment when the alleged offender does not reside in the same
21 house as the victim, is amended to read as follows:

22 (4) ~~The~~ If the report is determined to be true, the names and
23 conditions of any children of the alleged offender and whether these children
24 have been maltreated or are at risk of child maltreatment;

25
26 SECTION 7. Arkansas Code § 12-18-608, concerning the interview of an
27 alleged victim of child maltreatment, is amended to add an additional
28 subsection to read as follows:

29 (c)(1) If a person conducting an investigation under this chapter is
30 denied access to a child as permitted under this section, the Department of
31 Human Services or the Department of Arkansas State Police may petition the
32 proper juvenile division of a circuit court for an ex parte order of
33 investigation to limit the persons allowed to be present when the child is
34 being interviewed.

35 (2) However, upon application to the circuit court and a showing
36 of good cause by a parent, caretaker, or person denying unrestricted access

1 to a child, the circuit court may issue a written order to stay the order of
2 investigation pending a hearing to be held within seventy-two (72) hours.

3
4 SECTION 8. Arkansas Code § 12-18-620(e), concerning the release of
5 information on pending investigations under the Child Maltreatment Act, is
6 amended to read as follows:

7 (e) Information on a pending investigation, including protected health
8 information, shall be released upon request to:

9 (1) The Department of Human Services, excluding pending
10 investigations on an employee or spouse of the Division of Children and
11 Family Services;

12 (2) Law enforcement;

13 (3) The prosecuting attorney;

14 (4) The responsible multidisciplinary team;

15 (5) Attorney ad litem of the alleged victim or offender;

16 (6) Court Appointed Special Advocate of the alleged victim or
17 offender;

18 (7) Any licensing or registering authority to the extent
19 necessary to carry out its official responsibilities;

20 (8) Any department division director or facility director
21 receiving notice of a Child Abuse Hotline report pursuant to this chapter;

22 (9) Any facility director receiving notice of a Child Abuse
23 Hotline report pursuant to this chapter; and

24 (10)(A) Acting in their official capacities, individual United
25 States and Arkansas senators and representatives and their authorized staff
26 members but only if they agree not to permit any redisclosure of the
27 information.

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

30
31 SECTION 9. Arkansas Code Title 12, Chapter 18, Subchapter 6, is
32 amended to add an additional section to read as follows:

33 12-18-621. Right to obtain records during course of the investigation.

34 (a) Upon a request by a person conducting an investigation under this
35 chapter, the keeper of the record shall provide the person conducting the
36 investigation with the following:

1 (1) Records showing the nature and extent of the child's present
2 and past injuries;

3 (2) Records showing previous injuries or child maltreatment of
4 the child or his or her siblings;

5 (3) School records, as described under § 12-18-610;

6 (4) Personnel and volunteer records, as described under § 12-18-
7 611; and

8 (5) Results of radiological procedures, photographs, or medical
9 records, as described under § 12-18-615.

10 (b)(1) If a person conducting an investigation under this chapter is
11 denied records authorized to be released under subsection (a) of this
12 section, the Department of Human Services and the Department of Arkansas
13 State Police may petition the proper juvenile division of circuit court for
14 an ex parte order of investigation to obtain the records.

15 (2) However, upon application to the circuit court and a showing
16 of good cause by the keeper of the record, the circuit court may issue a
17 written order to stay the order to tender records pending a hearing to be
18 held within seventy-two (72) hours.

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20 SECTION 10. Arkansas Code § 12-18-701(a), concerning the final report
21 of the conclusion of an investigation of child maltreatment, is amended to
22 read as follows:

23 (a) The agency responsible for an investigation under this chapter
24 shall make a complete written report ~~of the investigation by~~ at the
25 conclusion of a period of thirty (30) days the investigation.

26
27 SECTION 11. Arkansas Code § 12-18-707(a), concerning when an alleged
28 offender of child maltreatment works with certain at risk individuals, is
29 amended to read as follows:

30 (a) If the child maltreatment investigative determination names as an
31 alleged offender a person who is engaged in child-related activities or
32 employment, works with the elderly, an individual with a disability, or an
33 individual with a mental illness, or is a juvenile and the Department of
34 Human Services or the Department of Arkansas State Police has determined that
35 children, the elderly, or individuals with a disability or mental illness
36 under the care of the alleged offender appear to be at risk of maltreatment

1 by the alleged offender, the ~~department~~ Department of Human Services or the
 2 Department of Arkansas State Police may notify the following of the
 3 investigative determination:

- 4 (1) An alleged offender's employer;
 5 (2) A school superintendent, principal, or a person in an
 6 equivalent position where the alleged offender is employed;
 7 (3) A person in charge of a paid or volunteer activity; and
 8 (4) Any licensing or registering authority to the extent
 9 necessary to carry out its official responsibilities.

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

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

- 16 (1) The alleged offender;
 17 (2) The ~~department~~ Department of Human Services, excluding
 18 pending investigations on an employee or spouse of the Division of Children
 19 and Family Services;
 20 (3) Law enforcement;
 21 (4) The prosecuting attorney;
 22 (5) The responsible multidisciplinary team;
 23 (6) Attorney ad litem for the victim or offender;
 24 (7) Court-appointed special advocate for the victim or offender;
 25 (8) Any licensing or registering authority to the extent
 26 necessary to carry out its official responsibilities;
 27 (9) Any department division director or facility director
 28 receiving notice of a Child Abuse Hotline report under this chapter;
 29 (10) Any facility director receiving notice of a Child Abuse
 30 Hotline report under this chapter; and
 31 (11)(A) Acting in their official capacities, individual United
 32 States and Arkansas senators and representatives and their authorized staff
 33 members but only if they agree not to permit any redisclosure of the
 34 information.
 35 (B) However, disclosure shall not be made to any committee
 36 or legislative body.

1
2 SECTION 13. Arkansas Code § 12-18-801(b), concerning the time it takes
3 the Department of Human Services to complete an administrative hearing, is
4 amended to add an additional subdivision to read as follows:

5 (4) The administrative law judge shall stay the case upon a
6 request by the Department of Human Services or the Department of Arkansas
7 State Police when there is an ongoing criminal or delinquency investigation
8 or pending criminal charges regarding the occurrence that is the subject of
9 the child maltreatment report.

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11 SECTION 14. Arkansas Code § 12-18-813(c)(1), concerning the notice
12 given to certain individuals of a true determination finding of child
13 maltreatment, is amended to read as follows:

14 (c)(1) Upon satisfaction of due process and if the investigative
15 determination is true, if the offender is engaged in child-related activities
16 or employment, works with the elderly, an individual with a disability, or an
17 individual with a mental illness, or is a juvenile and the ~~department~~
18 Department of Human Services or the Department of Arkansas State Police has
19 determined that children, the elderly, or individuals with a disability or
20 mental illness under the care of the offender appear to be at risk of
21 maltreatment by the offender, the ~~department~~ Department of Human Services or
22 the Department of Arkansas State Police may notify the following of the
23 investigative determination:

24 (A) The offender's employer;

25 (B) A school superintendent, principal, or a person in an
26 equivalent position where the offender is employed;

27 (C) A person in charge of a paid or volunteer activity;

28 and

29 (D) Any licensing or registering authority to the extent
30 necessary to carry out its official responsibilities.

31
32 SECTION 15. Arkansas Code § 12-18-1006(a), concerning custody of
33 children generally under the Child Maltreatment Act, is amended to read as
34 follows:

35 (a)(1) During the course of any child maltreatment investigation,
36 whether conducted by the Department of Human Services, the Department of

1 *Arkansas State Police, or local law enforcement, the Department of Human*
2 *Services shall assess whether or not the child can safely remain in the home.*

3 *(2) If the Department of Arkansas State Police is the*
4 *investigative agency, it shall disclose information as needed for the*
5 *Department of Human Services to make an assessment regarding whether a child*
6 *can safely remain in the home.*

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/s/J. Woods

APPROVED: 04/04/2015