

1 State of Arkansas *As Engrossed: S3/26/19 H4/4/19*

2 92nd General Assembly

A Bill

3 Regular Session, 2019

SENATE BILL 537

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5 By: Senator A. Clark

6 *By: Representative McCullough*

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For An Act To Be Entitled

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AN ACT TO AMEND THE LAW CONCERNING THE CHILD

10

MALTREATMENT INVESTIGATIONS OVERSIGHT COMMITTEE; AND

11

FOR OTHER PURPOSES.

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Subtitle

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TO AMEND THE LAW CONCERNING THE CHILD

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MALTREATMENT INVESTIGATIONS OVERSIGHT

17

COMMITTEE.

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

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22 SECTION 1. Arkansas Code § 10-3-3202(a)(2), concerning cases reviewed
23 by the Child Maltreatment Investigations Oversight Committee, is amended to
24 read as follows:

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(2) All cases that are reviewed and evaluated under this section

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shall:

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(A) *Be completed investigations of child maltreatment; and*

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(B) Not be associated with a pending dependency-neglect

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case.

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31 SECTION 2. Arkansas Code § 10-3-3202(b), concerning the members of the
32 Child Maltreatment Investigations Oversight Committee, is amended to read as
33 follows:

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(b)(1) The Child Maltreatment Investigations Oversight Committee shall

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be composed of the following members: ~~eighteen (18) members, and unless~~

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~~otherwise provided under this section, the members shall be selected by the~~



1 ~~Chair of the House Committee on Aging, Children and Youth, Legislative and~~
2 ~~Military Affairs and the Chair of the Senate Interim Committee on Children~~
3 ~~and Youth in consultation with members of the House Committee on Aging,~~
4 ~~Children and Youth, Legislative and Military Affairs and the Senate Interim~~
5 ~~Committee on Children and Youth.~~

6 ~~(2) Membership of the Child Maltreatment Investigations~~
7 ~~Oversight Committee shall include:~~

8 (A) The Director of the Division of Children and Family
9 Services of the Department of Human Services, or his or her designee;

10 (B) The Commander of the Crimes Against Children Division
11 of the Department of Arkansas State Police, or his or her designee;

12 (C) One (1) representative from the Governor's office, as
13 selected by the Governor;

14 (D) One (1) attorney who is employed as parent counsel;

15 (E) One (1) dependency-neglect attorney ad litem;

16 (F) One (1) attorney who:

17 (i) Has experience representing parents in child
18 welfare cases; and

19 (ii) Is not contracted by the state;

20 (G) One (1) judge or justice, who may be a retired judge
21 or justice;

22 (H) One (1) current or former representative from the
23 court-appointed special advocate program;

24 (I) One (1) representative from a child advocacy center;

25 (J)(i) One (1) parent who was previously designated as a
26 subject of the report.

27 (ii) As used in subdivision ~~(b)(2)(J)(i)~~

28 (b)(1)(J)(i) of this section, "subject of the report" means:

29 (a) The offender;

30 (b) The custodial and noncustodial parents,
31 guardians, and legal custodians of the child who is subject to suspected
32 maltreatment; and

33 (c) The child who is the subject of suspected
34 maltreatment;

35 (K) One (1) adult who was previously in the custody of the
36 state as a foster child due to a true finding of child maltreatment or

1 neglect;

2 (L) One (1) current foster parent;

3 (M)(i) The Chair of the House Committee on Aging, Children
4 and Youth, Legislative and Military Affairs or his or her designee ~~and the~~
5 ~~Chair of the Senate Interim Committee on Children and Youth or his or her~~
6 ~~designee.~~

7 (ii) The Chair of the House Committee on Aging,
8 Children and Youth, Legislative and Military Affairs shall be a nonvoting ex
9 officio member of the Child Maltreatment Investigations Oversight Committee
10 if he or she appoints a designee under subdivision (b)(1)(M)(i) of this
11 section;

12 (N)(i) The Chair of the Senate Interim Committee on
13 Children and Youth or his or her designee.

14 (ii) The Chair of the Senate Interim Committee on
15 Children and Youth shall be a nonvoting ex officio member of the Child
16 Maltreatment Investigations Oversight Committee if he or she appoints a
17 designee under subdivision (b)(1)(N)(i) of this section;

18 ~~(N)(i)(O) Two (2) designees of the Chair of the House~~
19 ~~Committee on Aging, Children and Youth, Legislative and Military Affairs and~~
20 ~~the Chair of the Senate Interim Committee on Children and Youth.~~

21 ~~(ii) The designees under subdivision (b)(2)(N)(i) of~~
22 ~~this section shall be members of the General Assembly who are members of the~~
23 ~~House Committee on Aging, Children and Youth, Legislative and Military~~
24 ~~Affairs or the Senate Interim Committee on Children and Youth Two (2) members~~
25 ~~of the General Assembly who are members of the:~~

26 (i) House Committee on Aging, Children and Youth,
27 Legislative and Military Affairs; or

28 (ii) Senate Interim Committee on Children and Youth;
29 ~~and~~

30 ~~(O)(P)(i) One (1) current or former member of the General~~
31 ~~Assembly who is a current or former member of the:~~

32 (a) House Committee on Aging, Children and
33 Youth, Legislative and Military Affairs; or ~~the~~

34 (b) Senate Interim Committee on Children and
35 Youth.

36 (ii) The current or former member of the General

1 Assembly under subdivision ~~(b)(2)(O)(i)~~ (b)(1)(P)(i) of this section shall be
2 appointed by the Governor;

3 (Q) The Director of the Dependency-Neglect Attorney Ad
4 Lite Program or his or her designee;

5 (R) An attorney who practices dependency-neglect appellate
6 law, who shall be selected by the Chair of the Child Maltreatment
7 Investigations Oversight Committee; and

8 (S) The Executive Director of the Commission for Parent
9 Counsel or his or her designee.

10 (2) Unless otherwise provided under this section, the members
11 listed under subdivisions (b)(1)(A)-(S) of this section shall be selected by
12 the Chair of the House Committee on Aging, Children and Youth, Legislative
13 and Military Affairs and the Chair of the Senate Interim Committee on
14 Children and Youth in consultation with members of the House Committee on
15 Aging, Children and Youth, Legislative and Military Affairs and the Senate
16 Interim Committee on Children and Youth.

17 (3) The members of the Child Maltreatment Investigations
18 Oversight Committee annually shall elect from their legislative membership
19 the Chair of the Child Maltreatment Investigations Oversight Committee.

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21 SECTION 3. Arkansas Code § 10-3-3202(d), concerning the selection,
22 discussion, evaluation, and review of child maltreatment cases by the Child
23 Maltreatment Investigations Oversight Committee, is amended to read as
24 follows:

25 (d)(1)(A) The Chair of the Child Maltreatment Investigations Oversight
26 Committee shall guide the Child Maltreatment Investigations Oversight
27 Committee in its discussion, evaluation, and review of the:

28 ~~(A)(i)~~ Conduct of child maltreatment investigations
29 completed by the Division of Children and Family Services of the Department
30 of Human Services or the Crimes Against Children Division of the Department
31 of Arkansas State Police; and

32 ~~(B)(ii)~~ Service delivery to children and families
33 involved in an investigation of child maltreatment.

34 ~~(2)(B)~~ Guidance from the Chair of the Child Maltreatment
35 Investigations Oversight Committee under subdivision (d)(1)(A) of this
36 section shall include without limitation:

1 ~~(A)(i)~~ Selection of closed child maltreatment cases
2 to be considered by the ~~oversight committee~~ Child Maltreatment Investigations
3 Oversight Committee; and

4 ~~(B)(ii)~~ Criteria by which to evaluate the conduct of
5 child maltreatment investigations and service delivery under subdivisions
6 (d)(1)(A)(i) and ~~(B)(ii)~~ of this section.

7 (2) A member of the General Assembly may submit a case to the
8 Child Maltreatment Investigations Oversight Committee for discussion,
9 evaluation, and review.

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11 SECTION 4. Arkansas Code § 10-3-3202, concerning definitions and the
12 creation, membership, and meetings of the Child Maltreatment Investigations
13 Oversight Committee, is amended to add an additional subsection to read as
14 follows:

15 (f) The following persons may attend a meeting of the Child
16 Maltreatment Investigations Oversight Committee:

17 (1) No more than three (3) employees of the Department of Human
18 Services who are selected by the Director of the Division of Children and
19 Family Services or by his or her designee who may be selected under
20 subdivision (b)(1)(A) of this section;

21 (2) No more than three (3) employees of the Crimes Against
22 Children Division of the Department of Arkansas State Police who are selected
23 by the Commander of the Crimes Against Children Division or by his or her
24 designee who may be selected under subdivision (b)(1)(B) of this section;

25 (3) No more than five (5) members of the General Assembly who
26 are:

27 (A) Not members of the Child Maltreatment Investigations
28 Oversight Committee; and

29 (B) Selected by the Chair of the Child Maltreatment
30 Investigations Oversight Committee; and

31 (4)(A) A member of the General Assembly who submits a case to
32 the Child Maltreatment Investigations Oversight Committee for discussion,
33 evaluation, and review.

34 (B) A member of the General Assembly who submits a case to
35 the Child Maltreatment Investigations Oversight Committee shall not
36 participate in any discussion, evaluation, or review of the case that occurs

1 during a meeting of the Child Maltreatment Investigations Oversight
2 Committee.

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4 SECTION 5. Arkansas Code § 10-3-3203(a), concerning the meetings of
5 the Child Maltreatment Investigations Oversight Committee being exempt from
6 public observance under the Freedom of Information Act of 1967, is amended to
7 read as follows:

8 (a) ~~Meetings~~ Except as otherwise provided under § 10-3-3202(f), the
9 meetings of the Child Maltreatment Investigations Oversight Committee are
10 closed and are exempt from public observance under the Freedom of Information
11 Act of 1967, § 25-19-101 et seq.

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13 SECTION 6. Arkansas Code § 10-3-3203(c), concerning the nondisclosure
14 requirements applicable to the members of the Child Maltreatment
15 Investigations Oversight Committee, is amended to read as follows:

16 (c)(1) A member of the Child Maltreatment Investigations Oversight
17 Committee may have access to and may disclose any child maltreatment record
18 to the extent authorized by:

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(A) This subchapter;

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(B) The Child Maltreatment Act, § 12-18-101 et seq.; and

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(C) Any other law of this state concerning child

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maltreatment records.

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(2) Except as provided under ~~subdivision (c)(2)~~ subdivisions

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(c)(3) and (4) of this section, ~~members~~ a member of the Child Maltreatment

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Investigations Oversight Committee shall not disclose to any other person ~~any~~

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~~confidential information;~~

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(A) Any child maltreatment record obtained during or in

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relation to a meeting of the Child Maltreatment Investigations Oversight

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Committee; and

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(B) The details of a discussion related to any child

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maltreatment record that occurs during or in relation to a meeting of the

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Child Maltreatment Investigations Oversight Committee.

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~~(2)(3)~~ *A legislative member of the Child Maltreatment*

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Investigations Oversight Committee, acting in his or her official capacity,

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may disclose ~~confidential~~ information from a child maltreatment record that

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is obtained under this section to:

1 (A)~~(i)~~ Members of the General Assembly Federal, state, and
2 local governmental entities, or any agent of such entities that have a need
3 for such information to carry out its responsibilities under law to protect
4 children from maltreatment-;

5 ~~(ii) However, disclosure shall not be made to any~~
6 ~~public committee or legislative body; and~~

7 (B)(i) The Governor and the Governor's authorized staff
8 members Acting in their official capacities under law to protect children,
9 individual United States and Arkansas senators and representatives and their
10 authorized staff members but only if they agree not to permit redisclosure of
11 the information except for a legitimate state purpose to protect children
12 from child maltreatment.

13 (ii) However, disclosure shall not be made to any
14 public committee or legislative body; and

15 (C) Acting in their official capacities under law to
16 protect children, the Governor and the Governor's authorized staff members
17 but only if they agree not to permit redisclosure of the information except
18 for a legitimate state purpose to protect children from child maltreatment.

19 (4) Information obtained under this section may be disclosed to
20 the Governor by a member of the Child Maltreatment Investigations Oversight
21 Committee who serves on the Child Maltreatment Investigations Oversight
22 Committee as:

23 (i) The representative from the Governor's office selected
24 by the Governor under § 10-3-3202(b)(1)(C); or

25 (ii) The current or former member of the General Assembly
26 appointed by the Governor under § 10-3-3202(b)(1)(P)(ii).

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28 SECTION 7. Arkansas Code § 12-18-104(c), concerning the disclosure and
29 discussion of confidential data, records, reports, or documents, is amended
30 to read as follows:

31 (c) ~~This section does not prohibit the disclosure and discussion of~~
32 ~~confidential~~ Confidential data, records, reports, or documents created,
33 collected, or compiled by or on behalf of the Department of Human Services,
34 the Department of Arkansas State Police, or other entity authorized under
35 this chapter to perform investigations or provide services to children,
36 individuals, or families may be:

1 (1) Disclosed to and discussed with a member of the Child
2 Maltreatment Investigations Oversight Committee; and

3 (2) Disclosed and discussed in closed meetings conducted by the
4 Child Maltreatment Investigations Oversight Committee under § 10-3-3201 et
5 seq.

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7 SECTION 8. Arkansas Code § 12-18-909(d)(5), concerning the disclosure
8 and discussion of confidential data, records, reports, or documents, is
9 amended to read as follows:

10 ~~(5) This section does not prohibit the disclosure and discussion~~
11 ~~of confidential~~ Confidential data, records, reports, or documents created,
12 collected, or compiled by or on behalf of the Department of Human Services,
13 the Department of Arkansas State Police, or other entity authorized under
14 this chapter to perform investigations or provide services to children,
15 individuals, or families may be:

16 (A) Disclosed to and discussed with a member of the Child
17 Maltreatment Investigations Oversight Committee; and

18 (B) Disclosed and discussed in closed meetings conducted
19 by the Child Maltreatment Investigations Oversight Committee under § 10-3-
20 3201 et seq.

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22 SECTION 9. Arkansas Code § 12-18-910(d)(4), concerning the disclosure
23 and discussion of confidential data, records, reports, or documents, is
24 amended to read as follows:

25 ~~(4) This section does not prohibit the disclosure and discussion~~
26 ~~of confidential~~ Confidential data, records, reports, or documents created,
27 collected, or compiled by or on behalf of the Department of Human Services,
28 the Department of Arkansas State Police, or other entity authorized under
29 this chapter to perform investigations or provide services to children,
30 individuals, or families may be:

31 (A) Disclosed to and discussed with a member of the Child
32 Maltreatment Investigations Oversight Committee; and

33 (B) Disclosed and discussed in closed meetings conducted
34 by the Child Maltreatment Investigations Oversight Committee under § 10-3-
35 3201 et seq.

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/s/A. Clark

APPROVED: 4/17/19