

1 State of Arkansas As Engrossed: H3/13/19 H3/18/19 H3/20/19  
2 92nd General Assembly **A Bill**  
3 Regular Session, 2019

HOUSE BILL 1551

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5 By: Representative Eubanks  
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7 **For An Act To Be Entitled**

8 AN ACT TO AMEND THE LAW CONCERNING THE  
9 CONFIDENTIALITY OF RECORDS UNDER THE ARKANSAS  
10 JUVENILE CODE OF 1989; CONCERNING SCHOOL NOTIFICATION  
11 OF CERTAIN OFFENSES FOR WHICH A MINOR IS ADJUDICATED  
12 OR CONVICTED; AND FOR OTHER PURPOSES.  
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15 **Subtitle**

16 TO AMEND THE LAW CONCERNING THE  
17 CONFIDENTIALITY OF RECORDS UNDER THE  
18 ARKANSAS JUVENILE CODE OF 1989; AND  
19 CONCERNING SCHOOL NOTIFICATION OF CERTAIN  
20 OFFENSES FOR WHICH A MINOR IS ADJUDICATED  
21 OR CONVICTED.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code Title 6, Chapter 10, is amended to add an  
27 additional section to read as follows:

28 6-10-133. Notification to school district of the adjudication or  
29 conviction of a minor – Confidentiality.

30 (a) For the purposes of this section, "minor" means a:

31 (1) Child who is under eighteen (18) years of age; or

32 (2) Person who is eighteen (18) years of age or older and is a  
33 student in a public secondary school.

34 (b) Upon receiving a written request, a court may provide information  
35 concerning the disposition of a minor who has been adjudicated delinquent or  
36 convicted of a criminal offense to the school superintendent or the designee



1 of the school superintendent of the school district to which the minor  
2 transfers, in which the minor is enrolled, or from which the minor receives  
3 services.

4 (c) A prosecuting attorney shall notify the school superintendent or  
5 the designee of the school superintendent of the school district to which a  
6 minor transfers, in which the minor is enrolled, or from which the minor  
7 receives services if the minor is adjudicated delinquent for or convicted of:

8 (1) An offense involving a deadly weapon under § 5-1-102;

9 (2) Kidnapping under § 5-11-102;

10 (3) Battery in the first degree under § 5-13-201;

11 (4) Sexual indecency with a child under § 5-14-110;

12 (5) First, second, third, or fourth degree sexual assault under  
13 §§ 5-14-124 – 5-14-127; or

14 (6) The unlawful possession of a handgun under § 5-73-119.

15 (d) Information provided under subsections (b) and (c) of this section  
16 shall not be released in violation of any state or federal law protecting the  
17 privacy of the minor.

18 (e)(1) An arresting agency shall orally notify the superintendent or  
19 the designee of the superintendent of the school district to which the minor  
20 transfers, in which the minor is enrolled, or from which the minor receives  
21 services of the arrest or detention of the minor for one (1) or more of the  
22 following offenses:

23 (A) An offense involving a deadly weapon under § 5-1-102;

24 (B) Kidnapping under § 5-11-102;

25 (C) Battery in the first degree under § 5-13-201;

26 (D) Sexual indecency with a child under § 5-14-110;

27 (E) First, second, third, or fourth degree sexual assault  
28 under §§ 5-14-124 – 5-14-127; or

29 (F) The unlawful possession of a handgun under § 5-73-119.

30 (2) The notice required under subdivision (e)(1) of this section shall  
31 be provided within twenty-four (24) hours of the arrest or detention of the  
32 minor or before the next school day, whichever is earlier.

33 (3)(A) The superintendent of the school district in which the  
34 minor is enrolled or from which the minor receives services shall then  
35 immediately notify:

36 (i) The principal of the school;

1 (ii) The resource officer of the school; and  
2 (iii) Any other school official with a legitimate  
3 educational interest in the minor.

4 (B) The arrest information shall:

5 (i) Be treated as confidential information; and  
6 (ii) Not be disclosed by the superintendent or the  
7 designee of the superintendent to any person other than a person listed in  
8 subdivision (e)(3)(A) of this section.

9 (C) A person listed in subdivision (e)(3)(A) of this  
10 section who is notified of the arrest or detention of a minor by the  
11 superintendent or the designee of the superintendent shall maintain the  
12 confidentiality of the information he or she receives.

13 (3) The arrest information shall be used by the school only for  
14 the limited purpose of obtaining services for the minor or to ensure school  
15 safety.

16 (f) Records of the arrest of, the detention of, investigation of, or  
17 proceedings involving a minor are confidential and are not subject to  
18 disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.,  
19 unless:

20 (1) Authorized by a written order of the juvenile division of  
21 circuit court;

22 (2) The arrest or the proceedings result in the minor being  
23 formally charged in the criminal division of circuit court for a felony; or

24 (3) As allowed under this section or § 9-27-320.

25 (g)(1) Information regarding the arrest or detention of a minor and  
26 proceedings related to the arrest or detention of the minor shall be  
27 confidential unless the exchange of information is:

28 (A) For the purpose of obtaining services for the minor or  
29 to ensure school safety;

30 (B) Reasonably necessary to achieve one (1) or both  
31 purposes; and

32 (C) Under a written order by the circuit court.

33 (2) Information regarding the arrest or detention of a minor may  
34 be given only to the following persons:

35 (A) A school counselor;

36 (B) A juvenile court probation officer or caseworker;

- 1                   (C) A law enforcement officer;  
2                   (D) A spiritual representative designated by the minor or  
3 his or her parents or legal guardian;  
4                   (E) A Department of Human Services caseworker;  
5                   (F) A community-based provider designated by the court,  
6 the school, or the parent or legal guardian of the minor;  
7                   (G) A Department of Health representative;  
8                   (H) The minor's attorney or other court-appointed special  
9 advocate; or  
10                   (I)(i) A school superintendent or the designee of the  
11 superintendent of the school district to which the minor transfers, in which  
12 the minor is enrolled, or from which the minor receives services.  
13                   (ii) A school superintendent or the designee of the  
14 superintendent of the school district in which the minor is enrolled or from  
15 which the minor receives services shall immediately notify the following  
16 persons of information he or she obtains under subdivision (g)(1) of this  
17 section:  
18                                   (a) The principal of the school;  
19                                   (b) The resource officer of the school; and  
20                                   (c) Any other school official with a  
21 legitimate educational interest in the minor.  
22                   (3) A person listed in subdivision (g)(2) of this section may  
23 meet to exchange information, to discuss options for assistance to the minor,  
24 to develop and implement a plan of action to assist the minor and to ensure  
25 school safety.  
26                   (4) The minor and his or her parent or legal guardian shall be  
27 notified within a reasonable time before a meeting and may attend any meeting  
28 of the persons referred to in subdivision (g)(2) of this section when three  
29 (3) or more individuals meet to discuss assistance for the minor or the  
30 protection of the school due to the behavior of the minor.  
31                   (5) Medical records, psychiatric records, psychological records,  
32 and related information shall remain confidential unless the minor's parent  
33 or legal guardian waives confidentiality in writing specifically describing  
34 the records to be disclosed between the persons listed in subdivision (g)(2)  
35 of this section and the purpose for the disclosure.  
36                   (6) A person listed in subdivision (g)(2) of this section who

1 exchanges any information referred to in this section may be held civilly  
2 liable for disclosure of the information if the person does not comply with  
3 the limitations set forth in this section.

4 (h)(1) When a court orders a safety plan for a minor that restricts or  
5 requires supervised contact with another minor as it relates to student or  
6 school safety, the court shall direct that a copy of the safety plan and a  
7 copy of the court order regarding the safety plan concerning student safety  
8 be provided to the school superintendent, the designee of the superintendent,  
9 and the principal of the school district to which the minor transfers, in  
10 which the minor is enrolled, or from which the minor receives services.

11 (2) When a court order amends or removes any safety plan  
12 outlined in subdivision (h)(1) of this section, the court shall direct that a  
13 copy of the safety plan and a copy of the court order regarding the safety  
14 plan, as it relates to student safety, be provided to the school  
15 superintendent, or his or her designee, and the principal of the school  
16 district to which the minor transfers, in which the minor is enrolled, or  
17 from which the minor receives services.

18 (3) A school official who receives a court order and safety plan  
19 or information concerning the court order and safety plan shall:

20 (A) Keep the information confidential and shall sign a  
21 statement not to disclose the information concerning the court order and  
22 safety plan that shall be kept by the superintendent or principal along with  
23 the court order and safety plan;

24 (B) Keep the information confidential and shall not  
25 disclose the information to a person not listed in subdivision (g)(2) of this  
26 section;

27 (C) Include the information in the permanent educational  
28 records of the minor; and

29 (D)(i) Treat the information and documentation contained  
30 in the court order as education records under the Family Educational Rights  
31 and Privacy Act, 20 U.S.C. § 1232g.

32 (ii) A school official shall not release, disclose,  
33 or make available the information and documentation contained in the court  
34 order for inspection to any party except as permitted under the Family  
35 Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

36 (iii) However, the local education agency shall not

1 under any circumstance release, disclose, or make available for inspection to  
2 the public, any college, university, institution of higher education,  
3 vocational or trade school, or any past, present, or future employer of the  
4 student the court order or safety plan portion of a student record of the  
5 minor.

6 (4) When a minor attains an age that he or she is no longer  
7 under the jurisdiction of the juvenile division of circuit court, the safety  
8 plan and the order regarding the safety plan shall be removed from the  
9 permanent records of the minor at the local education agency and destroyed.

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11 SECTION 2. Arkansas Code § 9-27-309(f) and (g), concerning the  
12 confidentiality of records under the Arkansas Juvenile Code of 1989, are  
13 amended to read as follows:

14 (f) This subchapter does not preclude prosecuting attorneys or the  
15 court from providing information, upon written request, concerning the  
16 disposition of ~~juveniles who have~~ a juvenile who has been adjudicated  
17 delinquent to:

18 (1) The victim or his or her next of kin; or

19 (2) The school superintendent of the school district ~~in which~~  
20 ~~the juvenile is currently enrolled~~ or the designee of the school  
21 superintendent of the school district to which the juvenile transfers, in  
22 which the juvenile is enrolled, or from which the juvenile receives services.

23 (g) ~~When a juvenile is adjudicated delinquent for an offense for which~~  
24 ~~he or she could have been charged as an adult or for unlawful possession of a~~  
25 ~~handgun, § 5-73-119, the prosecuting attorney shall notify the school~~  
26 ~~superintendent of the school district in which the juvenile is currently~~  
27 ~~enrolled~~ The prosecuting attorney shall notify the school superintendent or  
28 the designee of the school superintendent of the school district to which the  
29 juvenile transfers, in which the juvenile is enrolled, or from which the  
30 juvenile receives services if the juvenile is adjudicated delinquent for:

31 (1) An offense for which the juvenile could have been charged as  
32 an adult;

33 (2) An offense involving a deadly weapon under § 5-1-102;

34 (3) Kidnapping under § 5-11-102;

35 (4) Battery in the first degree under § 5-13-201;

36 (5) Sexual indecency with a child under § 5-14-110;

1 (6) First, second, third, or fourth degree sexual assault under  
2 §§ 5-14-124 – 5-14-127; or

3 (7) The unlawful possession of a handgun under § 5-73-119.  
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5 SECTION 3. Arkansas Code § 9-27-309(i), concerning the confidentiality  
6 of records under the Arkansas Juvenile Code of 1989, is amended to read as  
7 follows:

8 (i)(1) If a juvenile is arrested for unlawful possession of a firearm  
9 under § 5-73-119, an offense involving a deadly weapon under § 5-1-102, or  
10 battery in the first degree under § 5-13-201, the arresting agency shall ~~as~~  
11 ~~soon as practical and with all reasonable haste cause written notification of~~  
12 ~~the arrest to be given to the superintendent of the school district in which~~  
13 ~~the juvenile is currently enrolled~~ orally notify the superintendent or the  
14 designee of the superintendent of the school district to which the juvenile  
15 transfers, in which the juvenile is enrolled, or from which the juvenile  
16 receives services of the offense for which the juvenile was arrested or  
17 detained within twenty-four (24) hours of the arrest or detention or before  
18 the next school day, whichever is earlier.

19 (2)(A) The superintendent of the school district to which the  
20 juvenile transfers, in which the juvenile is enrolled, or from which the  
21 juvenile receives services shall then immediately notify the principal and  
22 the resource officer of the school in which the juvenile is currently  
23 enrolled.;

24 (i) The principal of the school;

25 (ii) The resource officer of the school; and

26 (iii) Any other school official with a legitimate  
27 educational interest in the juvenile.

28 (B) The arrest information shall:

29 (i) be Be treated as confidential information; and

30 (ii) shall not Not be disclosed by the  
31 superintendent or the designee of the superintendent to any person other than  
32 the principal and resource officer a person listed in subdivision (i)(2)(A)  
33 of this section, who shall also maintain the information as confidential.

34 (C) A person listed in subdivision (i)(2)(A) of this  
35 section who is notified of the arrest or detention of a juvenile by the  
36 superintendent or the designee of the superintendent shall maintain the

1 confidentiality of the information he or she receives.

2 (3) The arrest information shall be used by the school only for  
3 the limited purpose of obtaining services for the juvenile or to ensure  
4 school safety.

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6 SECTION 4. Arkansas Code § 9-27-309(k) and (l), concerning the  
7 confidentiality of records under the Arkansas Juvenile Code of 1989, are  
8 amended to read as follows:

9 (k) Information regarding the arrest or detention of a juvenile and  
10 related proceedings under this subchapter shall be confidential unless the  
11 exchange of information is:

12 (1) For the purpose of obtaining services for the juvenile, to  
13 ensure school safety, or to ensure public safety;

14 (2) Reasonably necessary to achieve one (1) or ~~both~~ more  
15 purposes; and

16 (3) Under a written order by the circuit court.

17 (l)(1) The information may be given only to the following persons:

18 (A) A school counselor;

19 (B) A juvenile court probation officer or caseworker;

20 (C) A law enforcement officer;

21 (D) A spiritual representative designated by the juvenile  
22 or his or her parents or legal guardian;

23 (E) A Department of Human Services caseworker;

24 (F) A community-based provider designated by the court,  
25 the school, or the parent or legal guardian of the juvenile;

26 (G) A Department of Health representative; ~~or~~

27 (H) The juvenile's attorney ad litem or other court-  
28 appointed special advocate; or

29 (I)(i) A school superintendent or the designee of the  
30 superintendent of the school district to which the juvenile transfers, in  
31 which the juvenile is enrolled, or from which the juvenile receives services.

32 (ii) A school superintendent or the designee of the  
33 superintendent of the school district in which the juvenile is enrolled or  
34 from which the juvenile receives services shall immediately notify the  
35 following persons of information he or she obtains under subsection (k) of  
36 this section:



1                                    (a) The principal of the school;  
2                                    (b) The resource officer of the school; and  
3                                    (c) Any other school official with a  
4                                    legitimate educational interest in the juvenile.

5                    (2) The persons listed in subdivision (1)(1) of this section may  
6 meet to exchange information, to discuss options for assistance to the  
7 juvenile, to develop and implement a plan of action to assist the juvenile,  
8 to ensure school safety, and to ensure public safety.

9                    (3) The juvenile and his or her parent or legal guardian shall  
10 be notified within a reasonable time before a meeting and may attend any  
11 meeting of the persons referred to in subdivision (1)(1) of this section when  
12 three (3) or more individuals meet to discuss assistance for the juvenile or  
13 protection of the public due to the juvenile's behavior.

14                    (4) Medical records, psychiatric records, psychological records,  
15 and related information shall remain confidential unless the juvenile's  
16 parent or legal guardian waives confidentiality in writing specifically  
17 describing the records to be disclosed between the persons listed in  
18 subdivision (1)(1) of this section and the purpose for the disclosure.

19                    (5) Persons listed in subdivision (1)(1) of this section who  
20 exchange any information referred to in this section may be held civilly  
21 liable for disclosure of the information if the person does not comply with  
22 limitations set forth in this section.

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24                    SECTION 5. Arkansas Code § 9-27-309(m)(1)-(3), concerning the  
25 confidentiality of records under the Arkansas Juvenile Code of 1989, are  
26 amended to read as follows:

27                    (m)(1) When a court orders that a juvenile have a safety plan that  
28 restricts or requires supervised contact with another juvenile or juveniles  
29 as it relates to student or school safety, the court shall direct that a copy  
30 of the safety plan and a copy of the court order regarding the safety plan  
31 concerning student or school safety be provided to the school superintendent  
32 and principal ~~where the~~ of the school district to which the juvenile  
33 transfers, in which the juvenile is enrolled, or from which the juvenile  
34 receives services.

35                    (2) When a court order amends or removes any safety plan  
36 outlined in subdivision (m)(1) of this section, the court shall direct that a

1 copy of the safety plan and a copy of the court order regarding the safety  
2 plan, as it relates to student or school safety, be provided to the school  
3 superintendent ~~superintendent and principal where the~~ of the school district  
4 to which the juvenile transfers, in which the juvenile is enrolled, or from  
5 which the juvenile receives services.

6 (3)(A) The superintendent or principal of the school district in  
7 which the juvenile is enrolled or from which the juvenile receives services  
8 shall provide verbal notification only to school officials who are necessary  
9 to implement the safety plan as ordered by the court to ensure student  
10 safety.

11 (B) This verbal notification may only be provided to  
12 assistant principals, counselors, resource officers, and the school ~~employee~~  
13 ~~who is~~ employees who are primarily responsible for the supervision of the  
14 juvenile or responsible for the juvenile learning environment ~~where the~~  
15 ~~juvenile is currently~~ of the juvenile in the school district in which the  
16 juvenile is enrolled or from which the juvenile receives services, and bus  
17 drivers, if applicable.

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19 /s/Eubanks  
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22 APPROVED: 4/1/19  
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