

**ARKANSAS SENATE**  
86th General Assembly - Regular Session, 2007  
**Amendment Form**

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**Subtitle of Senate Bill No. 369**

"AN ACT TO AMEND THE CHILD MALTREATMENT ACT."

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**Amendment No. 1 to Senate Bill No. 369.**

Amend Senate Bill No. 369 as originally introduced:

Page 10, delete line 30 and substitute:

“been filed but not yet adjudicated.

SECTION 6. Arkansas Code § 12-12-507(b), concerning reports of suspected child abuse, is amended to read as follows:

(b) When any of the following has reasonable cause to suspect that a child has been subjected to child maltreatment or has died as a result of child maltreatment or observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment, he or she shall immediately notify the child abuse hotline:

- (1) Any child care worker or foster care worker;
- (2) A coroner;
- (3) A day care center worker;
- (4) A dentist;
- (5) A dental hygienist;
- (6) A domestic abuse advocate;
- (7) A domestic violence shelter employee;
- (8) A domestic violence shelter volunteer;
- (9) An employee of the Department of Health and Human Services;
- (10) An employee working under contract for the Division of Youth Services of the Department of Health and Human Services;
- (11) Any foster parent;
- (12) A judge;
- (13) A law enforcement official;
- (14) A licensed nurse;
- (15) Any medical personnel who may be engaged in the admission, examination, care, or treatment of persons;
- (16) A mental health professional;
- (17) An osteopath;
- (18) A peace officer;
- (19) A physician;
- (20) A prosecuting attorney;



- (21) A resident intern;
- (22) A school counselor;
- (23) A school ~~official~~ employee;
- (24) A social worker;
- (25) A surgeon;
- (26) A teacher;
- (27) A court-appointed special advocate program staff member or volunteer;
- (28) A juvenile intake or probation officer; ~~or~~
- (29) Any clergyman, which includes a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization, or an individual reasonably believed to be so by the person consulting him or her, except to the extent he or she:
  - (A) Has acquired knowledge of suspected maltreatment through communications required to be kept confidential pursuant to the religious discipline of the relevant denomination or faith; or
  - (B) Received the knowledge of the suspected maltreatment from the offender in the context of a statement of admission; or
- (30) An employee of a child advocacy center."

AND

Page 12, line 10, delete "or clinic"

AND

Page 14, delete lines 6 through 7 and substitute:

"access to children and whether or not children are at risk such that children need to be protected."

AND

Page 16, line 18, delete "may" and substitute "shall have the right to"

AND

Page 16, delete lines 22 through 23 and substitute:

"SECTION 11. Arkansas Code § 12-12-512 is amended to read as follows:  
12-12-512. Child maltreatment investigative determination - Notice of finding - Amendment and appeal."

AND

Page 18, delete line 6 and substitute:

"in this subsection shall be within the sole discretion of the department.

(b) If the investigation cannot be completed, the investigation shall be determined incomplete and placed in inactive status.

(c)(1)(A)(i) In every case in which a report is determined to be true, the department shall notify each subject of the report of the determination.

(ii) If the offender is a juvenile ten (10) years of age or older and is in foster care, the department shall notify the juvenile's public defender or counsel for the juvenile and the legal parents or legal guardians of the offender.

(iii) If the offender is a juvenile ten (10) years of age or older, the department shall notify the legal parents or legal guardians of the offender.

(B) Notification shall be in writing by certified mail, restricted delivery, or by a process server.

(C) Notification to an offender who was an adult at the time of the act or omission that resulted in the finding of child maltreatment shall include the following:

(i) The investigative determination, true or unsubstantiated, exclusive of the source of the notification;

(ii) A statement that the person named as the offender of the true report may request an administrative hearing;

(iii) A statement that the request must be made to the department within thirty (30) days of receipt of the service or certified mailing of the notice of determination;

(iv) The name of the person making notification, the person's occupation, and where he or she can be reached; and

(v) A statement that the administrative hearing may take place in person if requested by the petitioner or the petitioner's attorney within thirty (30) days from the date that the petitioner receives notification under this subsection (c), provided that the hearing officer may conduct the hearing by video teleconference in lieu of an in-person hearing. If neither party requests that the hearing be conducted in person, then the hearing shall be conducted telephonically.

(D) Notification to an offender who was a juvenile age ten (10) years of age or older at the time of the act or omission that resulted in the finding of child maltreatment shall include the following:

(i) The investigative determination, true or unsubstantiated, exclusive of the source of the notification;

(ii) A statement that the matter has been referred for an automatic administrative hearing that may only be waived by the juvenile offender or his parent in writing; and

(iii) The name of the person making the notification to the juvenile offender, the person's occupation, and where he or she can be reached.

(2) The administrative hearing process must be completed within one hundred eighty (180) days from the date of the receipt of the request for a hearing, or the petitioner's name shall be removed from the central registry, provided that:

(A) Delays in completing the hearing that are attributable to the petitioner shall not count against the one-hundred-eighty-day limit; and

(B)(i) The one-hundred-eighty-day limit shall not apply if there is an ongoing criminal or delinquency investigation or

criminal or delinquency charges have or will be filed regarding the occurrence that is the subject of the child maltreatment report.

(ii) In those cases, the administrative hearing shall be stayed pending final disposition of the criminal or delinquency proceedings.

(iii) It shall be the duty of the petitioner to report the final disposition of the criminal or delinquency proceeding to the department.

(iv) Each report shall include a file-marked copy of the criminal or delinquency disposition.

(v) The request for an administrative hearing shall be deemed waived if the petitioner fails to report the disposition of the criminal or delinquency proceedings within thirty (30) days of the entry of a dispositive judgment or order.

(vi) If the criminal or delinquency proceedings have reached no final outcome within twelve (12) months of the filing of the administrative appeal, the administrative appeal will be deemed waived if the petitioner fails to provide a written statement of the status of the criminal or delinquency proceedings every sixty (60) days and a disposition report within thirty (30) days of the entry of a dispositive judgment or order.

(3) When the department conducts administrative appeal hearings, the chief counsel of the department may require the attendance of witnesses and the production of books, records, or other documents through the issuance of subpoenas when that testimony or information is necessary to adequately present the position of the department, the investigating protective services agency, or the alleged offender or adult subject of a report.

(4) Upon request by a petitioner, if the petitioner prevails at an administrative hearing or circuit court hearing and a report is changed from true to unsubstantiated, the department shall tender a list of persons to whom a disclosure had previously been made that the report was true.

(5)(A) If a petitioner's name is removed from the central registry as a result of a failure to comply with this subsection (c), then the department shall report any failures to comply with this subsection (c) for each quarter to the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth.

(B) The quarterly report to the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth shall include a written explanation of the failure of the department.

(d) Failure to obey the subpoena may be deemed a contempt, punishable accordingly.

(e) Administrative hearing decisions and all exhibits submitted at the hearing are confidential and may be used or disclosed only as provided in § 12-12-506(a)(2)(A).

(f)(1) The Office of Appeals and Hearings of the Department of Health and Human Services shall designate the sites to be used for video teleconference hearings.

(2) The office shall designate sites within ten (10) miles of the following cities:

(A) Arkadelphia;

- (B) Booneville;
- (C) Conway;
- (D) Fayetteville;
- (E) Jonesboro;
- (F) Little Rock; or
- (G) Warren.

(3) The office may designate additional sites for video teleconference hearings.

(g)(1) If any party requests an in-person hearing within thirty (30) days from the date that the party receives notification under subsection (c) of this section, then the in-person hearing shall be conducted in an office of the department nearest to the petitioner's residence unless the hearing officer notifies the parties that the hearing will be conducted via video teleconference.

(2) A site for a video teleconference hearing shall include the location designated by the office that is nearest to the petitioner's residence.

(3) The hearing officer and other parties may agree to appear at the location designated by the office or at any other designated hearing locations that are convenient to them.

(h)(1) A certified copy of a judgment or an adjudication from a court of competent jurisdiction dealing with the same subject matter as an issue concerned in the administrative hearing may be filed with and considered by the hearing officer in a motion for summary judgment.

(2)(A) A decision on any identical issue shall be rendered without a hearing.

(B) However, if the judgment or adjudication of the court is reversed or vacated and notice of the reversal or vacation is provided to the department, the department shall set the matter for a hearing.

SECTION 12. Arkansas Code § 12-12-516(a), regarding the protective custody of children, is amended to read as follows:

(a)(1) A police officer, a law enforcement official, a juvenile division of circuit court judge during juvenile proceedings concerning the child or a sibling of the child, or a designated employee of the Department of Health and Human Services may take a child into protective custody or any person in charge of a hospital or similar institution or any physician treating a child may keep that child in his or her custody without the consent of the parent or the guardian, whether or not additional medical treatment is required, if the:

(A) Child is ~~dependent neglected as defined in § 9-27-303(17)~~ subjected to neglect as defined under § 12-12-503(12)(B) and the department assesses the family and determines that the newborn and any other children, including siblings, under the custody or care of the mother are at substantial risk of serious harm such that the children need to be removed from the custody or care of the mother;

(B) Child is dependent as defined in the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.; or

(C) Circumstances or conditions of the child are such that continuing in his or her place of residence or in the care and custody of the parent, guardian, custodian, or caretaker presents an immediate danger of

severe maltreatment.

(2) However, such custody shall not exceed seventy-two (72) hours except in the event that the expiration of seventy-two (72) hours falls on a weekend or holiday, in which case protective custody may be extended through the next business day following the weekend or holiday.”

AND

Appropriately renumber all sections of the bill

The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator Madison

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Secretary