

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas As Engrossed: H2/19/97 H2/24/97 H2/26/97 H3/5/97 S3/26/97 S3/31/97

2 81st General Assembly

## A Bill

3 Regular Session, 1997

HOUSE BILL 1661

4

5 By: Representatives Pollan, Capps, Maddox, Miller, Cunningham, Newman, George, Willems, Flanagan, McGinnis, Baker, Beatty,  
6 Brown, Mullenix, Goodwin, McJunkin, Northcutt, Jones, Purdom, Schexnayder, McKissack, Dietz, McGee, Davis, Wooldridge, Wilson,  
7 Rorie, Judy Smith, Wilkins, Curran, Molinaro, Choate, Wren, Bisbee, Stalnaker, Bryant, Fletcher, Wallis, Ingram, Hall, Horn, Bush,  
8 Critcher, Joe Hudson, Lynn, Hendren, DeLay, Pappas, Ammons, Ferrell, Laverty, Madison, Johnson, Wilkinson, Sheppard, Kidd,  
9 Angel, Cook, Hausam, Trammell, McGehee, Dianne Hudson, Broadway, French, Magnus, Jeffress, Allison, Faris, Teague, Fuqua,  
10 Bond, Milum, and Keltner

11

12

13

### For An Act To Be Entitled

14 "AN ACT TO AUTHORIZE THE FORMATION OF A FAMILY PROTECTION  
15 UNIT WITHIN THE ARKANSAS STATE POLICE TO BE COMPOSED OF  
16 SPECIALLY TRAINED LAW ENFORCEMENT AND NON-LAW ENFORCEMENT  
17 PERSONNEL TO CONDUCT CHILD ABUSE INVESTIGATIONS; AND FOR  
18 OTHER PURPOSES."

19

20

### Subtitle

21 "TO AUTHORIZE THE FORMATION OF A FAMILY  
22 PROTECTION UNIT WITHIN THE ARKANSAS  
23 STATE POLICE TO CONDUCT CHILD ABUSE  
24 INVESTIGATIONS."

25

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

27

28 SECTION 1. The General Assembly recognizes that the State has a  
29 responsibility to provide competent and thorough child abuse investigations  
30 which are sensitive to the needs of children and families; that it is  
31 difficult for caseworkers with the Division of Children and Family Services of  
32 the Department of Human Services, which is currently charged with the  
33 responsibilities of investigating child abuse and providing services to  
34 children and families, to separate their dual roles as investigators and  
35 service providers; that many studies show that child abuse investigations are  
36 compromised when these very different functions are not separated; that child

1 abuse is a crime and suspected child abuse should be investigated with due  
2 diligence by trained law enforcement officers. Therefore, it is declared to be  
3 the intent of this General Assembly to authorize the Arkansas State Police to  
4 create a Family Protection Unit, either through transfer or by contract, to  
5 conduct investigations into severe child abuse as defined by interagency  
6 agreement and to administer the child abuse hotline.

7

8 SECTION 2. (a) When the powers and duties of the Department of Human  
9 Services in regard to the child abuse hotline and child abuse investigations  
10 are transferred to the Arkansas State Police, or when the Department of Human  
11 Services and the Arkansas State Police contract for the administration of the  
12 child abuse hotline or for the Arkansas State Police to conduct child abuse  
13 investigations or both, the State Police shall establish a Family Protection  
14 Unit.

15 (b) The Family Protection Unit shall consist of three sections:

16 (1) the Law Enforcement Child Abuse Section, which shall be  
17 staffed with law enforcement personnel and shall be responsible for the  
18 investigation of allegations that initially appear to involve severe child  
19 abuse or any other types criminal child abuse;

20 (2) the Child and Family Protection Section, which shall be  
21 staffed with non-law enforcement personnel and shall be responsible for the  
22 investigation of allegations of child abuse that initially do not appear to  
23 involve severe abuse or the need for a criminal investigation but have  
24 implications of criminal activity involving child abuse; and

25 (3) the Child Abuse Hotline Section, which shall administer  
26 twenty-four-hour toll-free in-watts telephone services to report to the  
27 Department of Arkansas State Police information regarding possible incidents  
28 of child abuse.

29 (c) The Family Protection Unit shall develop and maintain statewide  
30 statistics regarding the incidence of child abuse. Each county and city law  
31 enforcement agency conducting child abuse investigations through referral from  
32 the child abuse hotline shall report the status and disposition of these  
33 investigations to the Family Protection Unit on a monthly basis.

34 (d)(1) If the powers and duties of the Department of Human Services in  
35 regard to the child abuse hotline and child abuse investigations are  
36 transferred to the Arkansas State Police, the Family Protection Unit of the

1 Arkansas State Police and the Division of Children and Family Services of the  
2 Department of Human Services shall enter into a memorandum of understanding  
3 that shall include provisions that address the sharing of information reported  
4 to the child abuse hotline with the Division of Children and Family Services  
5 when such information is necessary for the Division to provide appropriate  
6 service delivery to children and families.

7           (2) If the Department of Human Services and the Arkansas State  
8 Police contract for the administration of the child abuse hotline or for the  
9 Arkansas State Police to conduct child abuse investigations or both, the  
10 contract shall include provisions that address the sharing of information  
11 reported to the child abuse hotline with the Division of Children and Family  
12 Services when such information is necessary for the Division to provide  
13 appropriate service delivery to children and families.

14

15           SECTION 3.

16           (a)(1) The Governor shall issue an executive order transferring  
17 the powers and duties of the Department of Human Services in regard to the  
18 child abuse hotline to the Arkansas State Police by a Type 2 transfer as  
19 defined in A.C.A. § 25-2-105. Personnel transferred with the child abuse  
20 hotline shall be required to meet employment standards and policies  
21 established by the Arkansas State Police in order to retain their employment;  
22 or

23           (2) The Department of Human Services and the Arkansas State  
24 Police shall enter into a contract for the administration of the child abuse  
25 hotline in accordance with this act.

26           (b)(1) The Governor shall issue an executive order transferring  
27 the powers and duties of the Department of Human Services in regard to child  
28 abuse investigations to the Arkansas State Police by a Type 2 Transfer as  
29 defined in A.C.A. § 25-2-105. Personnel transferred in regard to child abuse  
30 investigations shall be required to meet employment standards and policies  
31 established by the Arkansas State Police in order to retain their employment;  
32 or

33           (2) The Department of Human Services and the Arkansas State  
34 Police shall enter into a contract for the Arkansas State Police to conduct  
35 child abuse investigations in accordance with this act.

36           SECTION 4. (a) If a transfer of child abuse investigations occurs, any

1 and all statutory authority, powers, duties, functions, records, authorized  
2 positions, property, unexpended balances of appropriations, allocations or  
3 other funds of the Division of Children and Family Services of the Department  
4 of Human Services for the purposes of child abuse investigations to be  
5 transferred to the Arkansas State Police shall be transferred only after the  
6 development of a transition plan that will insure the efficient and effective  
7 transfer of the powers and duties of the Department of Human Services to the  
8 Arkansas State Police so that there is continuous service delivery to and  
9 protection of the children of the State of Arkansas.

10           (b) If the Department of Human Services and the Arkansas State  
11 Police enter into a contract for the Arkansas State Police to conduct child  
12 abuse investigations, the contract shall include a transition plan that  
13 insures continuous service delivery to and protection of the children of the  
14 State of Arkansas.

15           (c) The Department of Human Services and the Arkansas State Police  
16 shall submit for review any transition plan developed under this section to  
17 the House Subcommittee on Children and Youth of the House Committee on Aging,  
18 Children and Youth, Legislative and Military Affairs and the Senate Committee  
19 on Children and Youth.

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21           SECTION 5. The child abuse hotline and child abuse investigations  
22 referred to in this act shall be operated and conducted in accordance with  
23 Arkansas Code Annotated §§ 12-12-501, et seq.

24

25           SECTION 6. (a) When the Arkansas State Police assumes responsibility  
26 for the child abuse hotline and child abuse investigations under this act,  
27 either through transfer or by contract, an oversight system shall be created  
28 to review the administration of the child abuse hotline, the conduct of child  
29 abuse investigations, interagency cooperation in regard to the allocation of  
30 responsibility for various types of child abuse investigations, and service  
31 delivery to children and families. The oversight system shall utilize the  
32 same criteria by which the Division of Children and Family services of the  
33 Department of Human Services has been measured as stipulated in the settlement  
34 of Angela R. v. State of Arkansas. The House Subcommittee on Children and  
35 Youth of the House Committee on Aging, Children and Youth, Legislative and  
36 Military Affairs and the Senate Committee on Children and Youth shall conduct

1 the review and evaluation with the assistance of six (6) ex-officio members  
2 with professional experience in the performance of activities involving child  
3 abuse and neglect, to be appointed jointly by the chairpersons of the House  
4 Subcommittee and the Senate Committee from a list of nominees submitted by the  
5 professional associations of the respective members, as follows:

- 6 (1) One (1) ex-officio member shall be a pediatrician;  
7 (2) One (1) ex-officio member shall be a social worker;  
8 (3) One (1) ex-officio member shall be a guardian ad litem;  
9 (4) One (1) ex-officio member shall be a foster parent;  
10 (5) One (1) ex-officio member shall be an educator; and  
11 (6) One (1) ex-officio member shall be a law enforcement  
12 officer.

13 (b) The oversight system established in subsection (a) shall commence  
14 within one (1) month of the assumption of the responsibility for the child  
15 abuse hotline and child abuse investigations by the State Police, either by  
16 contract or through transfer. The Arkansas State Police shall submit reports  
17 regarding the administration of the child abuse hotline and the conduct of  
18 child abuse investigations at least quarterly or more often as determined by  
19 the House Subcommittee and the Senate Committee.

20

21 SECTION 7. Arkansas Code Annotated §12-8-106 is amended to read as  
22 follows:

23 "12-8-106. State police - Duties and powers - Restrictions - Municipal  
24 police barred from certain highways.

25 (a) It shall be the duty of the Department of Arkansas State Police to:

26 (1) Patrol the public highways, make arrests, and enforce the  
27 laws of this state relating to motor vehicles and the use of the state  
28 highways;

29 (2) Assist in the collection of delinquent motor vehicle license  
30 taxes and the collection of gasoline and other taxes that are required by law;  
31 and

32 (3) Determine when, if possible, the person or persons are the  
33 cause of injury to any such highway or other state property and arrest all  
34 persons criminally responsible for injury to any such highway or other state  
35 property and bring them before the proper officer for trial.

36 (b) The Department of Arkansas State Police shall be conservators of

1 the peace and as such shall have the powers possessed by police officers in  
2 cities and sheriffs in counties, except that the Arkansas State Police may  
3 exercise such powers anywhere in this state.

4 (c) The Department of Arkansas State Police shall have the authority to  
5 establish a Family Protection Unit, either through transfer or by contract, to  
6 conduct child abuse investigations, to administer the child abuse hotline,  
7 and, when consistent with regulations promulgated by the Arkansas State  
8 Police, to provide training and technical assistance to local law enforcement  
9 in conducting child abuse investigations.

10 ~~\_\_\_\_\_ (e)(d)~~ The police officers shall have all the power and authority of  
11 the State Fire Marshal and shall assist in making investigations of arson and  
12 such other offenses as the director may direct and shall be subject to the  
13 call of the circuit courts of the state and the Governor.

14 ~~\_\_\_\_\_ (d)(e)~~ However, this chapter shall not be construed so as to take away  
15 any authority of the regularly constituted peace officers in the state, but  
16 the Arkansas State Police shall cooperate with them in the enforcement of the  
17 criminal laws of the state and assist such officers either in the enforcement  
18 of the law or apprehension of criminals.

19 ~~\_\_\_\_\_ (e)(f)~~ Nothing in this chapter shall be so construed as to authorize  
20 any officer of the Department of Arkansas State Police to serve writs unless  
21 they are specifically directed to the department, or an officer thereof, by  
22 the issuing authority.

23 ~~\_\_\_\_\_ (f)(g)~~ No officer or member of the Department of Arkansas State Police  
24 shall ever be used in performing police duties on private property in  
25 connection with any strike, lockout, or other industrial disturbance.

26 ~~\_\_\_\_\_ (g)(h)(1)~~ Municipal police are prohibited from patrolling limited  
27 access highways, except as may be authorized by the Director of the Department  
28 of Arkansas State Police.

29 (2) However, nothing in this subsection shall prohibit a  
30 municipal police officer from responding to an accident or other emergency on  
31 a limited access highway."  
32

33 SECTION 8. Nothing contained in this act shall limit or impair in any  
34 way the authority of the Medicaid Fraud Control Unit within the Attorney  
35 Generals Office from investigating or referring for prosecution complaints of  
36 abuse and neglect of patients of health care facilities which receive Medicaid

1 funds.

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3 SECTION 9. All provisions of this act of a general and permanent nature  
4 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
5 Revision Commission shall incorporate the same in the Code.

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7 SECTION 10. If any provision of this act or the application thereof to  
8 any person or circumstance is held invalid, such invalidity shall not affect  
9 other provisions or applications of the act which can be given effect without  
10 the invalid provision or application, and to this end the provisions of this  
11 act are declared to be severable.

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13 SECTION 11. All laws and parts of laws in conflict with this act are  
14 hereby repealed.

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16 SECTION 12. EMERGENCY. It is found and determined by the General  
17 Assembly that the powers and duties of the Department of Human Services in  
18 regard to the child abuse hotline and child abuse investigations will be  
19 shifted to the Arkansas State Police, either through transfer or by contract;  
20 that such transfer or contract could occur prior to or at the beginning of the  
21 next fiscal year; and that such transfer or contract cannot occur prior to or  
22 at the beginning of the next fiscal year unless this emergency clause is  
23 adopted. Therefore an emergency is declared to exist and this act being  
24 immediately necessary for the preservation of the public peace, health and  
25 safety shall become effective on the date of its approval by the Governor. If  
26 the bill is neither approved nor vetoed by the Governor, it shall become  
27 effective on the expiration of the period of time during which the Governor  
28 may veto the bill. If the bill is vetoed by the Governor and the veto is  
29 overridden, it shall become effective on the date the last house overrides the  
30 veto.

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/s/Rep. Pollan et al

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