

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

HOUSE BILL 1223

4
5 By: Representatives Hale, Biggs, Faris, Bond, Milum, Sheppard

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §§ 9-27-309,
10 9-27-325 AND 9-27-348 TO MAKE THE HEARINGS AND RECORDS
11 OF CERTAIN JUVENILE PROCEEDINGS OPEN TO THE PUBLIC AND
12 THE MEDIA; AND FOR OTHER PURPOSES."

Subtitle

15 "TO MAKE THE HEARINGS AND RECORDS OF
16 CERTAIN JUVENILE PROCEEDINGS OPEN TO THE
17 PUBLIC AND THE MEDIA."

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

20
21 SECTION 1. Arkansas Code Annotated § 9-27-309 is amended to read as
22 follows:

23 "9-27-309. Confidentiality of records.

24 (a) All records may be closed and confidential within the discretion of
25 the court, except:

26 (1) Adoption records shall be closed and confidential as provided
27 in the Revised Uniform Adoption Act, as amended, § 9-9-201 et seq.; and

28 (2) Records of delinquency adjudications for juveniles ten (10)
29 years of age or older charged in juvenile court for an offense enumerated in
30 §9-27-318(b)(2);

31 ~~(2)(3)~~ Records of delinquency adjudications for which a juvenile
32 could have been tried as an adult shall be made available to prosecuting
33 attorneys for use at sentencing if the juvenile is subsequently tried as an
34 adult or to determine if the juvenile should be tried as an adult.

35 (b) Records of delinquency adjudications for which a juvenile could
36 have been tried as an adult shall be kept for ten (10) years after the last

VJF043

0121991130.VJF043

1 adjudication of delinquency or the date of a plea of guilty or nolo contendere
 2 or finding of guilt as an adult. Thereafter they may be expunged. The court
 3 may expunge other juvenile records at any time and shall expunge all the
 4 records of a juvenile upon his twenty-first birthday, in other types of
 5 delinquency, dependency-neglect, or families in need of services cases. For
 6 purposes of this section, 'expunge' means to destroy.

7 (c) Nothing in this section applies to or restricts the use or
 8 publication of statistics, data, or other materials which summarize or refer
 9 to any records, reports, statements, notes, or other information in the
 10 aggregate and which do not refer to or disclose the identity of any juvenile
 11 defendant in any proceeding when used only for the purpose of research and
 12 study.

13 (d) Nothing in this subchapter shall preclude prosecuting attorneys or
 14 the juvenile court from providing information, upon written request,
 15 concerning the disposition of juveniles who have been adjudicated delinquent
 16 to:

- 17 (1) The victim or his next of kin; or
- 18 (2) The school superintendent of the school district in which the
 19 juvenile is currently enrolled.

20 (e) When a juvenile is adjudicated delinquent for an offense for which
 21 he could have been charged as an adult or for unlawful possession of a
 22 handgun, the prosecuting attorney shall notify the school superintendent of
 23 the school district in which the juvenile is currently enrolled.

24 (f) Information provided pursuant to subsections (d) and (e) of this
 25 section shall not be released in violation of any state or federal law
 26 protecting the privacy of the juvenile."
 27

28 SECTION 2. Arkansas Code Annotated § 9-27-325 is amended to read as
 29 follows:

30 "9-27-325. Hearings - Generally.

31 (a) All hearings shall be conducted by the judge without a jury.

32 (b)(1) The defendant need not file a written responsive pleading in
 33 order to be heard by the court.

34 (2) In dependency-neglect proceedings, retained counsel shall
 35 file a notice of appearance immediately upon acceptance of representation,
 36 with a copy to be served on the petitioner.

1 (c)(1) At the time set for hearing, the court may:

2 (A) Proceed to hear the case only if the juvenile is
3 present or excused for good cause by the court; or

4 (B) Continue the case upon determination that the presence
5 of an adult defendant is necessary.

6 (2) Upon determining that a necessary party is not present before
7 the court, the court may:

8 (A) Issue an order for contempt if the defendant was served
9 with an order to appear; or

10 (B) Issue an order to appear, with a time and place set by
11 the court for hearing, if the defendant was served with a notice of hearing.

12 (d) The court shall be a court of record. A record of all proceedings
13 shall be kept in the same manner as other proceedings of chancery court and in
14 accordance with rules promulgated by the Arkansas Supreme Court.

15 (e) Unless otherwise indicated, the Arkansas Rules of Evidence shall
16 apply.

17 (f) Except as otherwise provided in this subchapter and until rules of
18 procedure for juvenile court are developed and in effect, the Arkansas Rules
19 of Civil Procedure shall apply to all proceedings and the Arkansas Rules of
20 Criminal Procedure shall apply to delinquency proceedings.

21 (g) All defendants shall have the right to compel attendance of
22 witnesses in accordance with the Arkansas Rules of Civil Procedure and the
23 Arkansas Rules of Criminal Procedure.

24 (h)(1) The petitioner in all proceedings shall bear the burden of
25 presenting the case at hearings.

26 (2) The following burdens of proof shall apply:

27 (A) Proof beyond a reasonable doubt in delinquency
28 hearings;

29 (B) Proof by a preponderance of the evidence in dependency-
30 neglect, family in need of services (FINS), and probation revocation hearings;

31 (C) Proof by clear and convincing evidence for hearings to
32 terminate parental rights.

33 (i) All hearings may be closed within the discretion of the court,
34 except hearings involving juveniles ten (10) years of age or older charged
35 with an offense enumerated in § 9-27-318(b)(2). However, in delinquency
36 cases, the juvenile shall have the right to an open hearing, and, in adoption

1 cases_ the hearings shall be closed as provided in the Revised Uni form
2 Adoption Act, as amended, § 9-9-201 et seq."

3
4 SECTION 3. Arkansas Code Annotated § 9-27-348 is amended to read as
5 follows:

6 "9-27-348. Publication of proceedings.

7 No information whereby the name or identity of a juvenile who is the
8 subject of proceedings under this subchapter may be ascertained shall be
9 published by the news media without written order of the juvenile court_
10 except delinquency adjudication proceedings of juveniles ten (10) years of age
11 and older charged in juvenile court with an offense enumerated in § 9-27-
12 318(b)(2)."

13
14 SECTION 4. All provisions of this Act of a general and permanent nature
15 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
16 Revision Commission shall incorporate the same in the Code.

17
18 SECTION 5. If any provision of this Act or the application thereof to
19 any person or circumstance is held invalid, such invalidity shall not affect
20 other provisions or applications of the Act which can be given effect without
21 the invalid provision or application, and to this end the provisions of this
22 Act are declared to be severable.

23
24 SECTION 6. All laws and parts of laws in conflict with this Act are
25 hereby repealed.

26
27
28
29
30
31
32
33
34
35
36