

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
4

As Engrossed: H4/2/99
A Bill

HOUSE BILL 1811

5 By: Representatives *Wilkins, Duggar, Parks*
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8 **For An Act To Be Entitled**

9 "AN ACT TO PRESCRIBE PROCEDURES FOR PRESERVING
10 EVIDENCE IN CHILD ABUSE INVESTIGATION INTERVIEWS IN
11 SUFFICIENT DETAIL TO SUSTAIN SUCCESSFUL PROSECUTION OF
12 THOSE GUILTY OF CHILD ABUSE AND TO DETERMINE THOSE
13 FALSELY ACCUSED OF CHILD ABUSE; AND FOR OTHER
14 PURPOSES. "

15 **Subtitle**

16 "' ARKANSAS CHILD ABUSE INVESTIGATION
17 EVIDENCE PRESERVATION ACT' . "
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Short Title.

24 This act shall be known and cited as the 'Arkansas Child Abuse
25 Investigation Evidence Preservation Act'.
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27 SECTION 2. Statement of State Policy.

28 It shall be the policy of the State of Arkansas to encourage complete
29 and accurate documentation of all interviews conducted as a part of child
30 abuse investigations, including the number and content of interviews conducted
31 with the victims of alleged child abuse during the course of a child abuse
32 assessment, a criminal investigation, or a criminal prosecution, and further,
33 to discourage the conduct of child abuse investigation interviews that are
34 unnecessary, duplicative, or otherwise not in the best interests of the child.
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36 SECTION 3. Standards for Investigative Interviews.

1 From and after the effective date of this act, every investigative or
2 risk assessment interview of an alleged victim of child maltreatment or child
3 abuse shall be documented by video taping or audio taping whether the
4 interviews are conducted by law enforcement personnel, Department of Human
5 Services personnel, mental health practitioners, social works practitioners,
6 physicians, educators or by employees or volunteers for private child abuse
7 organizations. As used in this act, the term "investigative or risk assessment
8 interview" or "an interview or an assessment" means any interview conducted in
9 connection with an investigation of an initial notification of suspected child
10 maltreatment or an investigation of any allegation of severe maltreatment
11 conducted by the employees of the Department of Human Services, any law
12 enforcement officers, or any prosecuting attorney under Arkansas Code §§ 12-
13 12-507, 12-12-509, and 12-12-510 or any interviews conducted by private
14 medical providers, physicians, licensed psychological, psychiatric, or social
15 work practitioners, or by employees or volunteers for private child abuse
16 organizations under contracts with the Department of Human Services or when
17 ordered by a court of competent jurisdiction to conduct an examination or
18 assessment for the potential use a evidence in a cause of action before the
19 court.

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21 SECTION 4. Interviews recorded.

22 (a) Whenever an interview or an assessment is conducted of any person
23 suspected of child maltreatment or child abuse, any witness of alleged child
24 maltreatment or child abuse, or any victim of alleged child maltreatment or
25 child abuse, the interviewer shall make a continuous video tape or audio tape
26 recording of each interview or assessment.

27 (b) The tape recordings shall be maintained by the interviewer or by the
28 department, entity, or law enforcement agency conducting the investigation and
29 shall contain the following information:

30 (1) The date, time, place, and duration of the interview; and

31 (2) The identity of all persons present at the interview.

32 (c) These tape recordings shall be preserved for a period of three (3)
33 years from the date they are made. Except to the extent used for a criminal
34 investigation or when used as evidence in a criminal prosecution or when used
35 as evidence in a civil cause of action or administrative hearing, the tape
36 recordings shall be kept confidential and shall, regardless of the source of

1 the investigators' funding, not be considered public records and shall not be
2 subject to release to any person under the Arkansas Freedom of Information
3 Act.

4
5 SECTION 5. Interview guidelines.

6 The Arkansas Attorney General shall be responsible for developing
7 written guidelines for the video and audio tape recording of the investigative
8 or risk assessment interviews of alleged suspects, witnesses, and victims of
9 child maltreatment or child abuse by investigators who conduct child
10 maltreatment and child abuse interviews and assessments, criminal
11 investigations, or prosecutions. The guidelines should clarify when and under
12 what circumstances the video or audio tape recording should occur.

13
14 SECTION 6. Criminal penalty.

15 (a) Any person who knowingly alters or falsifies a recording of a child
16 maltreatment and abuse investigation interview or assessment required by this
17 act shall be deemed guilty of a Class D felony.

18 (b) Any person who knowingly fails to produce, preserve and maintain an
19 accurate, complete, continuous and unaltered record of each child maltreatment
20 and abuse investigation interview or assessment or who releases a confidential
21 recording of an investigative interview or assessment in violation of this act
22 shall be deemed guilty of a Class A misdemeanor.

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24 SECTION 7. All provisions of this act of a general and permanent nature
25 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
26 Revision Commission shall incorporate the same in the Code.

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

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34 SECTION 9. All laws and parts of laws in conflict with this act are
35 hereby repealed.

36 */s/ Wilkins, et al*