

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 1021

4
5 By: Representative Thyer
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For An Act To Be Entitled

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9 AN ACT TO INCREASE THE TIME IN WHICH AN
10 ADMINISTRATIVE HEARING MUST TAKE PLACE UNDER THE
11 ARKANSAS CHILD MALTREATMENT ACT; AND FOR OTHER
12 PURPOSES.
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Subtitle

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15 TO INCREASE THE TIME IN WHICH AN
16 ADMINISTRATIVE HEARING MUST TAKE PLACE
17 UNDER THE ARKANSAS CHILD MALTREATMENT
18 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. Arkansas Code § 12-12-512(c), concerning administrative
24 hearings under the Arkansas Child Maltreatment Act, is amended to read as
25 follows:

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

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

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

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



1 (C) Notification shall include the following:

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

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

6 (iii) A statement that the request must be made to
7 the department within thirty (30) days of receipt of the hand delivery or
8 mailing of the notice of determination; and

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

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

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

17 ~~(B) Failure to complete the hearing process in a timely~~
18 ~~fashion shall not deprive the department or a court reviewing the child~~
19 ~~maltreatment determination of jurisdiction to make a final agency~~
20 ~~determination or review a final agency determination pursuant to the Arkansas~~
21 ~~Administrative Procedure Act, § 25-15-201 et seq.; and~~

22 ~~(C)-(i)-(B)(i)~~ (i) The one-hundred-eighty-day limit shall not
23 apply if there is an ongoing criminal investigation or criminal charges have
24 or will be filed regarding the occurrence that is the subject of the child
25 maltreatment report.

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

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

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

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

36 (vi) If the criminal proceedings have reached no

1 final outcome within twelve (12) months of the filing of the administrative
2 appeal, the administrative appeal will be deemed waived if the petitioner
3 fails to provide a written statement of the status of the criminal
4 proceedings every sixty (60) days and a disposition report within thirty (30)
5 days of the entry of a dispositive judgment or order.

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

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

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

23 (B) The quarterly report to the House Interim Committee on
24 Aging, Children and Youth, Legislative and Military Affairs and the Senate
25 Interim Committee on Children and Youth shall include a written explanation
26 of the failure of the Department of Human Services.

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