

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 87th General Assembly  
3 Regular Session, 2009

# A Bill

SENATE BILL 595

4  
5 By: Senator Laverty  
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## For An Act To Be Entitled

8  
9 AN ACT TO AMEND THE PROCEDURES FOR REMOVAL OF A  
10 PERSON'S NAME FROM THE CHILD MALTREATMENT CENTRAL  
11 REGISTRY; AND FOR OTHER PURPOSES.  
12

## Subtitle

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14 TO AMEND THE PROCEDURES FOR REMOVAL OF A  
15 PERSON'S NAME FROM THE CHILD  
16 MALTREATMENT CENTRAL REGISTRY.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code § 12-12-505 is amended to read as follows:  
23 12-12-505. Central registry.

24 (a) There is established within the Department of Human Services a  
25 statewide central registry for the collection of records of cases involving  
26 allegations of child maltreatment that are determined to be true under this  
27 subchapter.

28 (b)(1)(A)(i) Records of all cases in which allegations are determined  
29 to be true shall be retained by the central registry.

30 (ii) If an offender is found guilty of, pleads  
31 guilty to, or pleads nolo contendere to an act that is the same act for which  
32 the offender is named in the central registry regardless of any subsequent  
33 expungement of the offense from the offender's criminal record, the offender  
34 shall always remain in the central registry unless the conviction is reversed  
35 or vacated.

36 (iii)(a) The department shall identify in its policy



1 and procedures manual the types of child maltreatment that will automatically  
2 result in the removal of the name of an offender from the central registry.

3 (b) If an offender has been entered into the  
4 central registry as an offender for the named types of child maltreatment  
5 identified under subdivision (b)(1)(A)(iii)(a) of this section, the  
6 offender's name shall be removed from the central registry on reports of this  
7 type of child maltreatment if the offender has not had a subsequent true  
8 report of this type for one (1) year and more than one (1) year has passed  
9 since the ~~closure of any protective services or foster care case opened as~~  
10 ~~the result of this report~~ offender's name was placed on the central registry.

11 (iv)(a) The department shall identify in its policy  
12 and procedures manual the types of child maltreatment for which an offender  
13 can request that the offender's name be removed from the central registry.

14 (b) If an offender has been entered into the  
15 central registry as an offender for the named types of child maltreatment  
16 identified under subdivision (b)(1)(A)(iv)(a) of this section, the offender  
17 may petition the department requesting that the offender's name be removed  
18 from the central registry if the offender has not had a subsequent true  
19 report of this type for ~~five (5) years~~ one (1) year and more than ~~five (5)~~  
20 ~~years have~~ one (1) year has passed since the ~~closure of any protective~~  
21 ~~services or foster care case opened as the result of this report~~ offender's  
22 name was placed on the central registry.

23 (c) The department shall develop policy and  
24 procedures to assist it in determining whether to remove the offender's name  
25 from the central registry.

26 (d) If the department denies the request for  
27 removal of the offender's name from the central registry, the offender ~~may~~  
28 ~~request an administrative hearing within thirty (30) days from receipt of the~~  
29 ~~department's decision~~ shall wait one (1) year from the date of the denial  
30 before filing a new petition with the department requesting that the  
31 offender's name be removed from the central registry.

32 (v) Notwithstanding the provisions of subdivisions  
33 (b)(1)(A)(i)-(iv) of this section, with regard to an offender who was a  
34 juvenile at the time of the act or omission that resulted in a true finding  
35 of child maltreatment, the department shall:

36 (a) Not remove the offender's name from the

1 central registry if the offender was found guilty of, pleaded guilty to, or  
 2 pleaded nolo contendere to a felony in circuit court as an adult for the act  
 3 that is the same act for which the offender is named in the central registry  
 4 unless the conviction is reversed or vacated; or

5 (b) Remove the offender's name from the  
 6 central registry if:

7 (1) ~~More~~ The juvenile has reached  
 8 eighteen (18) years of age or more than five (5) years have one (1) year has  
 9 elapsed from the date of the act or omission that caused the true finding of  
 10 child maltreatment and there have been no subsequent acts or omissions  
 11 resulting in a true finding of child maltreatment; and

12 (2) The offender can prove by a  
 13 preponderance of the evidence that the juvenile offender has been  
 14 rehabilitated.

15 (B) Records of all cases in which allegations are  
 16 determined to be unsubstantiated shall not be included in the central  
 17 registry.

18 (C) If the department denies the request for removal of  
 19 the offender's name from the central registry, the offender shall wait one  
 20 (1) year from the date of denial before filing a new petition with the  
 21 department requesting that the offender's name be removed from the central  
 22 registry.

23 (2)(A) Information included in the automated data sytem shall be  
 24 retained indefinitely to assist the department in assessing future risk and  
 25 safety.

26 (B) Hard copy records of unsubstantiated reports shall be  
 27 retained no longer than eighteen (18) months for purposes of audit.

28 (c) The central registry may adopt such rules as may be necessary to  
 29 encourage cooperation with other states in exchanging true reports and to  
 30 effect a national registration system.

31 (d) The Director of the Department of Human Services shall adopt rules  
 32 necessary to carry out this subchapter pursuant to the Arkansas  
 33 Administrative Procedure Act, § 25-15-201 et seq., except that the director  
 34 shall not begin the process under the Arkansas Administrative Procedure Act,  
 35 § 25-15-201 et seq., until the proposed rules have been reviewed by the House  
 36 Interim Committee on Aging, Children and Youth, Legislative and Military

1 Affairs and the Senate Interim Committee on Children and Youth.

2 (e)(1) The department may charge:

3 (A) A reasonable fee not to exceed ten dollars (\$10.00)  
4 for researching, copying, and mailing records of the investigative files of  
5 child maltreatment cases; and

6 (B) A reasonable fee for reproducing copies of tapes and  
7 photographs.

8 (2) No fee may be charged to:

9 (A) A nonprofit or volunteer agency that requests searches  
10 of the investigative files; or

11 (B) A person who is indigent.

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