

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 779

4
5 By: Senator P. Malone
6 By: Representative D. Hutchinson

For An Act To Be Entitled

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10 AN ACT TO AMEND THE LAW REGARDING THE
11 AVAILABILITY OF RECORDS OF CHILDREN'S ADVOCACY
12 CENTERS; AND FOR OTHER PURPOSES.

Subtitle

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15 TO AMEND THE LAW REGARDING THE
16 AVAILABILITY OF RECORDS OF CHILDREN'S
17 ADVOCACY CENTERS.

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

21
22 20-78-106. Availability of records of children's advocacy centers.

23 (a) Records, correspondence, memorandum, case histories, medical
24 records, other materials, or audio or video recordings compiled or gathered
25 by children's advocacy centers are not subject to disclosure under the
26 Freedom of Information Act of 1967, § 25-19-101 et seq.

27 ~~(a)~~(b) Reports, correspondence, memoranda, case histories, medical
28 records, or other materials compiled or gathered by children's advocacy
29 centers performing the services described in § 20-78-105 shall be
30 confidential and shall not be released or otherwise made available except:

31 (1) Medical records may be released to the attorney representing
32 the abused child in a custody or juvenile case;

33 (2) For any audit or similar activity conducted with the
34 administration of any plan or program by any governmental agency which is
35 authorized by law to conduct the audit or activity;

36 (3) To law enforcement agencies, a prosecuting attorney, or the



1 Attorney General;

2 (4) To any licensing or registering authority to the extent
3 necessary to carry out its official responsibilities, but the information
4 shall be maintained as confidential;

5 (5) To a grand jury or court upon a finding that:

6 (A) Information in the record is necessary for the
7 determination of a civil, criminal, or administrative issue before the court
8 or grand jury; and

9 (B) The information cannot be obtained from a person or
10 entity described in subdivision ~~(b)(2)~~ (c)(2) of this section;

11 (6) To the Department of Human Services;

12 (7) To a court-appointed special advocate volunteer with a valid
13 court order;

14 (8) All records may be released to an attorney in any criminal,
15 civil, or administrative proceeding or to a party in a criminal, civil, or
16 administrative proceeding if the party is not represented by an attorney as
17 permitted under criminal, civil, or administrative discovery rules upon a
18 finding by the court that:

19 (A) Information in the record is necessary for the
20 determination of a criminal, civil, or administrative issue before a court or
21 grand jury; and

22 (B) The information cannot be obtained from a person or
23 entity described in subdivision ~~(b)(2)~~ (c)(2) of this section; and

24 (9) Medical records may be released to a person providing
25 medical or psychiatric care or services to the abused child.

26 ~~(b)(1)(c)(1)~~ Except as provided in subdivision ~~(b)(2)~~ (c)(2) of this
27 section, no person or agency to whom disclosure is made may disclose to any
28 other person reports or other information obtained under this section.

29 (2) Law enforcement agencies, a prosecuting attorney, the
30 department, a court of competent jurisdiction, or the Attorney General may
31 release reports or information obtained under this section. However, any
32 report or information released under this subsection shall remain
33 confidential.

34 ~~(e)(d)(1)~~ Nothing in this section shall deny or diminish the right of
35 an attorney for a party or a party to a criminal, civil, or administrative
36 proceeding to receive discovery as provided in this section in order for the

1 attorney or party to:

- 2 ~~(1)(A)~~ Prepare for trial;
- 3 ~~(2)(B)~~ File appropriate pleadings; or
- 4 ~~(3)(C)~~ Present evidence in court.

5 ~~(d) A disclosure of information in violation of this section is a~~
6 ~~Class C misdemeanor.~~

7 (2)(A) The circuit court shall issue protective orders under the
8 Arkansas Rules of Criminal Procedure or Arkansas Rules of Civil Procedure, as
9 applicable, to ensure that those items of evidence for which there is a
10 reasonable expectation of privacy are not distributed to persons or
11 institutions without a legitimate interest in the evidence.

12 (B) The administrative hearing officer or administrative
13 law judge shall issue protective orders to ensure that those items of
14 evidence for which there is a reasonable expectation of privacy are not
15 distributed to persons or institutions without a legitimate interest in the
16 evidence.

17 (C) The circuit court may enforce the orders with criminal
18 or civil sanctions, as appropriate.

19 (e)(1) A person commits the offense of unlawful disclosure of data or
20 information in the first degree under this section if the person knowingly
21 discloses records, correspondence, memorandum, case histories, medical
22 records, or other materials compiled or gathered by a children’s advocacy
23 center to a person to whom disclosure is not permitted under this section.

24 (2) Unlawful disclosure of data or information in the first
25 degree under this chapter is a Class A misdemeanor.

26 (f) A person commits the offense of unlawful disclosure of data or
27 information in the second degree under this section if:

28 (1)(A) The person knowingly discloses an audio or video recording
29 from a children’s advocacy center in violation of this section to a person to
30 whom disclosure is not permitted by this section; or

31 (B) The person knowingly discloses records,
32 correspondence, memorandum, case histories, medical records, other materials,
33 or audio or video recordings compiled or gathered by a children’s advocacy
34 center to the general public, including the internet or the news media, in
35 violation of this section.

36 (2) Unlawful disclosure of data or information in the second

1 degree under this chapter is a Class C misdemeanor.
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