

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
4

As Engrossed: S3/19/09

A Bill

SENATE BILL 779

5 By: Senator P. Malone
6 By: Representative D. Hutchinson
7

For An Act To Be Entitled

8
9 AN ACT TO AMEND THE LAW REGARDING THE
10 AVAILABILITY OF RECORDS OF CHILDREN'S ADVOCACY
11 CENTERS; AND FOR OTHER PURPOSES.
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Subtitle

13
14 TO AMEND THE LAW REGARDING THE
15 AVAILABILITY OF RECORDS OF CHILDREN'S
16 ADVOCACY CENTERS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 20-78-106. Availability of records of children's advocacy centers.

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

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

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

32 (3) To law enforcement agencies, a prosecuting attorney, or the
33 Attorney General;

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



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

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

5 (B) The information cannot be obtained from a person or
6 entity described in subdivision (b)(2) of this section;

7 (6) To the Department of Human Services;

8 (7) To a court-appointed special advocate volunteer with a valid
9 court order;

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

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

18 (B) The information cannot be obtained from a person or
19 entity described in subdivision (b)(2) of this section; and

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

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

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

30 (c)(1) Nothing in this section shall deny or diminish the right of an
31 attorney for a party or a party to a criminal, civil, or administrative
32 proceeding to receive discovery as provided in this section in order for the
33 attorney or party to:

34 ~~(1)(A)~~ Prepare for trial;

35 ~~(2)(B)~~ File appropriate pleadings; or

36 ~~(3)(C)~~ Present evidence in court.

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

3 (2)(A) The circuit court shall issue protective orders under the
4 Arkansas Rules of Criminal Procedure or Arkansas Rules of Civil Procedure, as
5 applicable, to ensure that those items of evidence for which there is a
6 reasonable expectation of privacy are not distributed to persons or
7 institutions without a legitimate interest in the evidence and otherwise
8 should be sealed. There is a reasonable expectation of privacy in the
9 following items:

10 (i) Audio or videotapes of a child witness;

11 (ii) Photographs of a child witness;

12 (iii) Name of child victim; and

13 (iv) Medical records of child victim.

14 (B) The administrative hearing officer or administrative
15 law judge shall issue protective orders to ensure that those items of
16 evidence for which there is a reasonable expectation of privacy are not
17 distributed to persons or institutions without a legitimate interest in the
18 evidence and otherwise should be sealed. There is a reasonable expectation
19 of privacy in the following items:

20 (i) Audio or videotapes of a child witness;

21 (ii) Photographs of a child witness;

22 (iii) Name of child victim; and

23 (iv) Medical records of child victim.

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

26 (d)(1) A person commits the offense of unlawful disclosure of data or
27 information in the second degree under this section if the person knowingly
28 discloses records, correspondence, memoranda, case histories, medical
29 records, or other materials compiled or gathered by a children's advocacy
30 center to a person to whom disclosure is not permitted under this section.

31 (2) Unlawful disclosure of data or information in the first
32 degree under this chapter is a Class C misdemeanor.

33 (e) A person commits the offense of unlawful disclosure of data or
34 information in the first degree under this section if:

35 (1)(A) The person knowingly discloses an audio or video recording
36 from a children's advocacy center in violation of this section to a person to

1 whom disclosure is not permitted by this section; or
2 (B) The person knowingly discloses records,
3 correspondence, memoranda, case histories, medical records, other materials,
4 or audio or video recordings compiled or gathered by a children's advocacy
5 center to the general public, including the internet or the news media, in
6 violation of this section.

7 (2) Unlawful disclosure of data or information in the second
8 degree under this chapter is a Class A misdemeanor.

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10 /s/ P. Malone
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