

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

# A Bill

HOUSE BILL 1654

5 By: Representative C. Fite  
6 By: Senator Rice  
7

## For An Act To Be Entitled

9 AN ACT TO FOCUS THE LAW REGARDING THE CONFIDENTIALITY  
10 OF RECORDS OF CHILD ABUSE OR NEGLECT ON THOSE KEPT BY  
11 CHILDREN'S ADVOCACY CENTERS; TO REMOVE CERTAIN IMAGES  
12 FROM THE LIST OF ITEMS WITH A REASONABLE EXPECTATION  
13 OF PRIVACY; AND FOR OTHER PURPOSES.  
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## Subtitle

16 TO FOCUS THE LAW REGARDING THE  
17 CONFIDENTIALITY OF RECORDS OF CHILD ABUSE  
18 OR NEGLECT ON THOSE KEPT BY CHILDREN'S  
19 ADVOCACY CENTERS.  
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21  
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code § 20-78-106(a), concerning the availability  
26 of records from children's advocacy centers during an investigation of  
27 suspected cases of child abuse or neglect, is amended to read as follows:

28 (a) Reports, correspondence, memoranda, case histories, medical  
29 records, or other materials compiled or gathered ~~during an investigation of a~~  
30 ~~suspected case of child abuse or neglect~~ by a children's advocacy center,  
31 ~~hospital, or clinic~~ shall be confidential and shall not be released or  
32 otherwise made available except:

33 (1) To the attorney representing the abused child in a custody  
34 or juvenile case with an order of appointment or an order recognizing entry  
35 of appearance;

36 (2) For any audit or similar activity conducted with the



1 administration of any plan or program by any governmental agency ~~which~~ that  
 2 is authorized by law to conduct the audit or activity;

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

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

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

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

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

14 (6) To the Department of Human Services;

15 (7) To a court-appointed special advocate volunteer with a valid  
 16 court order;

17 ~~(8) Images of a child's breast, genitals, or anus shall not be~~  
 18 ~~released except as provided under subsection (c) of this section;~~

19 ~~(9)~~(8) All records may be released to an attorney in any  
 20 criminal, civil, or administrative proceeding or to a party in a criminal,  
 21 civil, or administrative proceeding if the party is not represented by an  
 22 attorney as permitted under criminal, civil, or administrative discovery  
 23 rules upon a finding by the court that:

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

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

29 ~~(10)~~(9) Medical records may be released to a person providing  
 30 medical or psychiatric care or services to the abused child; and

31 ~~(11)~~(10) For bona fide instructional purposes ~~at~~ by Arkansas  
 32 Children's Hospital, ~~and~~ the University of Arkansas for Medical Sciences, ~~or~~  
 33 ~~both,~~ or a child advocacy center in the care, detection, treatment, and  
 34 management of suspected child abuse and neglect.

35  
 36 SECTION 2. Arkansas Code § 20-78-106(c)(2)(A) and (B), concerning the

1 availability of records from children's \ during an investigation of  
 2 suspected cases of child abuse or neglect, are amended to read as follows:

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

9 (ii) There is a reasonable expectation of privacy in  
 10 the following items:

- 11 ~~(i)(a)~~ Audio or videotapes of a child witness;
- 12 ~~(ii)(b)~~ Photographs of a child witness;
- 13 ~~(iii)(c)~~ Name of a child victim; and
- 14 ~~(iv)(d)~~ Medical records of a child victim; ~~and~~
- 15 ~~(v) Images of a child's breast, genitals, or~~

16 ~~anus.~~

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

22 (ii) There is a reasonable expectation of privacy in  
 23 the following items:

- 24 ~~(i)(a)~~ Audio or videotapes of a child  
 25 witness;
- 26 ~~(ii)(b)~~ Photographs of a child witness;
- 27 ~~(iii)(c)~~ Name of a child victim; and
- 28 ~~(iv)(d)~~ Medical records of a child victim; ~~and~~
- 29 ~~(v) Images of a child's breast, genitals, or anus.~~