

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

SENATE BILL 83

5 By: Senator A. Clark  
6

## For An Act To Be Entitled

8 AN ACT CONCERNING EVIDENCE PRESENTED IN CERTAIN  
9 JUVENILE HEARINGS; TO AMEND THE REQUIREMENTS FOR  
10 UNSUPERVISED VISITATION; TO ALLOW SANCTIONS FOR  
11 NONCOMPLIANCE WITH CERTAIN PROVISIONS OF THE ARKANSAS  
12 JUVENILE CODE OF 1989; AND FOR OTHER PURPOSES.  
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## Subtitle

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15 CONCERNING EVIDENCE PRESENTED IN CERTAIN  
16 JUVENILE HEARINGS; TO AMEND THE  
17 REQUIREMENTS FOR UNSUPERVISED VISITATION;  
18 AND TO ALLOW SANCTIONS FOR NONCOMPLIANCE  
19 WITH CERTAIN PROVISIONS OF THE ARKANSAS  
20 JUVENILE CODE OF 1989.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code § 9-27-325(i), concerning closed hearings  
27 involving allegations and reports of child maltreatment or involving children  
28 in foster care, is amended to read as follows:

29 (i)(1) ~~All hearings~~ Hearings involving allegations and reports of  
30 child maltreatment and ~~all hearings~~ involving cases of children in foster  
31 care shall be closed.

32 (2)(A) The testimony and statements provided by a parent,  
33 guardian, custodian, or child in a hearing that concerns child maltreatment,  
34 a child in foster care, staffing, or a family team meeting or mediation are  
35 sealed and shall not be disclosed to a non-party entity or person without a  
36 court order.



1                   (B)(i) A request for the release of information concerning  
2 testimony and statements described in subdivision (i)(2)(A) of this section  
3 may be filed with the court by:

4                   (a) The Department of Human Services or an  
5 attorney for the department;

6                   (b) An attorney ad litem;

7                   (c) An attorney for a parent;

8                   (d) A court-appointed special advocate;

9                   (e) A foster parent; or

10                  (f) A service provider assigned to a case.

11                  (ii) A party to whom information requested under  
12 subdivision (i)(2)(B)(i) of this section is released shall not redisclose the  
13 information without a court order.

14                  (C)(i) A hearing shall be held if a request for the  
15 release of information concerning testimony and statements is filed with the  
16 court.

17                  (ii) At a hearing on a request for the release of  
18 information concerning testimony and statements, the party requesting the  
19 information shall:

20                  (a) State the nature and purpose of the  
21 request;

22                  (b) Present evidence that the information is  
23 necessary to achieve the stated purpose;

24                  (c) Prove that he or she does not have any  
25 other means by which to achieve the stated purpose;

26                  (d) Prove that it would be a gross miscarriage  
27 of justice to deny the request; and

28                  (e) Demonstrate that the request is being made  
29 due to an extreme emergency.

30                  (D) A court shall not order a release of information  
31 concerning the testimony and statements of a parent, guardian, or custodian  
32 if the request is:

33                  (i) Being made for the sole purpose of using the  
34 information in a criminal prosecution or domestic relations case;

35                  (ii) Not being made due to an extreme emergency; or

36                  (iii) Being made for any other reason that is not

1 extreme in nature.

2 (3) All other hearings may be closed within the discretion of  
 3 the court, except that in delinquency cases the juvenile shall have the right  
 4 to an open hearing, and in adoption cases the hearings shall be closed as  
 5 provided in the Revised Uniform Adoption Act, § 9-9-201 et seq.

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 7 SECTION 2. Arkansas Code § 9-27-325(p)(2)(A), concerning the  
 8 petitioner’s burden to prove that unsupervised visitation is not in the best  
 9 interest of a child, is amended to read as follows:

10 (2)(A) A petitioner has the burden of proving at every hearing  
 11 that unsupervised visitation is not in the best interest of a child.

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 13 SECTION 3. Arkansas Code § 9-27-325(p)(2), concerning a petitioner’s  
 14 burden to prove that unsupervised visitation is not in the best interest of a  
 15 juvenile, is amended to add additional subdivisions to read as follows:

16 (C) A rebuttable presumption that unsupervised visitation  
 17 is in the best interest of the juvenile applies at a hearing in which a  
 18 parent who does not participate in unsupervised visitation with the juvenile.

19 (D) If a court orders unsupervised visitation, the parent  
 20 from whom custody of the juvenile has been removed shall receive a minimum of  
 21 four (4) hours per week of unsupervised visitation unless the court orders  
 22 otherwise.

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 24 SECTION 4. Arkansas Code § 9-27-325, concerning hearings held under  
 25 the Arkansas Juvenile Code of 1989, is amended to add an additional  
 26 subsection to read as follows:

27 (r)(1) A failure to file a written order within the time period  
 28 specified under this subchapter may result in a court imposing a sanction on  
 29 the department, an attorney for the department, an employee of the  
 30 department, or any other person who is directed by the court to prepare and  
 31 file the written order.

32 (2) A sanction imposed under subdivision (r)(1) of this section  
 33 may include without limitation:

34 (A) A finding of no reasonable effort by the court;

35 (B) An order to pay a penalty to the court;

36 (C) A referral for appropriate disciplinary action against

1 an attorney who fails to timely file the written order to the Supreme Court  
2 Committee on Professional Conduct or Office of Professional Conduct or the  
3 appropriate disciplinary body of another state;

4 (D) The setting aside of a previous order and the setting  
5 of a new hearing;

6 (E) A dismissal of a petition for the termination of  
7 parental rights;

8 (F) A dismissal of a dependency-neglect case; or

9 (G) Other sanction that the court determines are  
10 appropriate and decides to impose.

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