

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: H3/16/23

A Bill

HOUSE BILL 1570

5 By: Representative K. Brown
6

For An Act To Be Entitled

8 AN ACT TO AMEND "QUINCY'S LAW" CONCERNING PHYSICAL
9 EXAMS AND OTHER TESTING IN AN INVESTIGATION INVOLVING
10 ALLEGED ABUSE UNDER THE CHILD MALTREATMENT ACT; TO
11 PROVIDE FOR THE RIGHT OF A PARENT, GUARDIAN, OR
12 CUSTODIAN TO BE PROVIDED WITH THE MEDICAL RECORDS OF
13 A CHILD WHO HAS BEEN REMOVED FROM THE CUSTODY OF THE
14 PARENT, PUTATIVE PARENT, GUARDIAN, OR CUSTODIAN OR IS
15 IN THE CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES;
16 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

17
18
19 TO AMEND "QUINCY'S LAW" CONCERNING
20 TESTING IN CERTAIN INVESTIGATIONS UNDER
21 THE CHILD MALTREATMENT ACT; TO AMEND THE
22 LAW REGARDING THE RIGHT TO MEDICAL
23 RECORDS UNDER THE CHILD MALTREATMENT ACT;
24 AND TO DECLARE AN EMERGENCY.
25
26
27

28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
29

30 SECTION 1. Arkansas Code § 12-18-614(b)(1), concerning physical exams
31 and other testing under the Child Maltreatment Act, is amended to read as
32 follows:

33 (b)(1) If the report of child maltreatment or suspected child
34 maltreatment alleges abuse as defined in § 12-18-103, the alleged offender
35 may:

36 (A)(i) For the purpose of obtaining a second opinion,



1 request that the alleged victim be examined by a licensed healthcare provider
2 of the alleged offender's choosing who:

3 (a) Did not perform the initial examination,
4 test, or procedure described under subsection (a) of this section; and

5 (b) Routinely provides medical care to
6 pediatric patients.

7 (ii) An examination performed under subdivision
8 (b)(1)(A)(i) of this section ~~shall:~~

9 (a) Shall be paid for by the alleged offender
10 or as otherwise covered by insurance or Medicaid; and

11 (b) May be requested by the alleged offender
12 regardless of whether the alleged victim has been taken into or placed in the
13 custody of the Department of Human Services; and

14 (B)(i) For the purpose of ruling out a possible
15 differential diagnosis, request that a licensed healthcare provider who
16 routinely provides medical care to pediatric patients examine the alleged
17 victim to determine whether or not the alleged victim has ~~one (1) or more of~~
18 ~~the following medical conditions~~ a congenital cutaneous variant, bone
19 fragility, a coagulation disorder, or another medical condition or genetic
20 condition that may appear to be caused by suspected abuse or increase the
21 risk of misdiagnosis of abuse as defined in § 12-18-103, including without
22 limitation:

23 (a) Rickets;

24 (b) Ehlers-Danlos syndrome;

25 (c) Osteogenesis imperfecta;

26 (d) Vitamin D deficiency; or

27 (e) ~~Another medical condition that may:~~

28 Vitamin K deficiency.

29 ~~(1) Appear to be caused by suspected~~
30 ~~abuse as defined in § 12-18-103; or~~

31 ~~(2) Increase the risk of a misdiagnosis~~
32 ~~of abuse as defined in § 12-18-103.~~

33 (ii) An examination performed under subdivision
34 (b)(1)(B)(i) of this section shall be paid for by the alleged offender or as
35 otherwise covered by insurance or Medicaid.

36 (iii) If the alleged victim undergoes genetic

1 testing under subdivision (b)(1)(B)(i) of this section, the genetic testing
2 shall include a complete family medical history even if the alleged victim's
3 family members have not been diagnosed with a genetic condition.

4
5 SECTION 2. Arkansas Code Title 12, Chapter 18, Subchapter 6, is
6 amended to add an additional section to read as follows:

7 12-18-624. Right of parent, guardian, or custodian to medical records
8 of child – Definitions.

9 (a)(1) A court with jurisdiction may order a healthcare institution or
10 practitioner to provide an alleged child victim's medical records to an
11 alleged offender if the alleged offender:

12 (A) Has been accused of physical abuse; and

13 (B) Is a parent, putative parent, guardian, or custodian
14 of the alleged child victim.

15 (2) For purposes of subsection (a)(1) of this section, physical
16 abuse includes alleged physical manifestations of sexual abuse.

17 (3) A court with jurisdiction may enter a protective order
18 restricting the dissemination of the medical records or from making any use
19 of the medical records other than for purposes of a specific case before the
20 court.

21 (4) Medical records shall include hospital or clinic records,
22 physicians' records, or other healthcare records, including without
23 limitation:

24 (A) An admissions form, discharge summary, history and
25 physical, progress notes, physicians' orders, reports of operations, recovery
26 room records, lab reports, consultation reports, medication administration
27 records, nurses' notes, and other reports catalogued and maintained by the
28 medical records department of a hospital, doctor's office, medical clinic, or
29 any other medical facility; and

30 (B) A paper entry, electronic entry, or image that is:

31 (i) Captured in relation to a diagnosis, treatment,
32 or other service provided to a child; or

33 (ii) Relied upon by a healthcare provider to
34 diagnose or provide treatment or other services to a child.

35 (5) A healthcare institution or provider shall redact the
36 alleged child victim's address, phone number, email address, and other

1 information regarding the alleged child victim's foster placement before
2 providing medical records under this section.

3 (6) A healthcare institution or provider that fails to provide
4 medical records under this section pursuant to a valid court order may be
5 held in contempt of court under § 16-10-108.

6
7 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
8 General Assembly of the State of Arkansas that "Quincy's Law", Acts 2021, No.
9 976, is a crucial protection for persons who are the subject of an
10 investigation under the Child Maltreatment Act, § 12-18-101 et seq.; that
11 since the enactment of Quincy's Law in 2021, an additional need for further
12 protections under Quincy's Law has been demonstrated, most notably to provide
13 further clarity in child maltreatment investigations involving differential
14 diagnoses that may present as possible child abuse without additional testing
15 that the provisions in this act make available; and that numerous child
16 maltreatment investigations are taking place at any given time, and thus
17 there is an urgent need for the provisions in this act to become effective.
18 Therefore, an emergency is declared to exist, and this act being immediately
19 necessary for the preservation of public peace, health, and safety shall
20 become effective on:

21 (1) The date of its approval by the Governor;

22 (2) If the bill is neither approved nor vetoed by the Governor,
23 the expiration of the period of time during which the Governor may veto the
24 bill; or

25 (3) If the bill is vetoed by the Governor and the veto is
26 overridden, the date the last house overrides the veto.

27
28 /s/K. Brown
29
30
31
32
33
34
35
36