

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

As Engrossed: S3/16/15

# A Bill

SENATE BILL 1046

5 By: Senator J. Woods  
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## For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING REPORTS AND  
9 INVESTIGATIONS OF CHILD MALTREATMENT; AND FOR OTHER  
10 PURPOSES.  
11

### Subtitle

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14 TO AMEND THE LAW CONCERNING REPORTS AND  
15 INVESTIGATIONS OF CHILD MALTREATMENT.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 *SECTION 1. Arkansas Code § 12-18-103(20)(D), concerning the definition*  
21 *of sexual abuse, is amended to add an additional subdivision to read as*  
22 *follows:*

23 *(vii) Solicitation of sexual intercourse, deviate*  
24 *sexual activity, or sexual contact; or*  
25

26 *SECTION 2. Arkansas Code § 12-18-506(a), concerning the report of*  
27 *child abuse when the alleged offender in engaged in activities with children,*  
28 *is amended to read as follows:*

29 *(a) If the Child Abuse Hotline receives a report naming as an alleged*  
30 *offender a person who is engaged in child-related activities or employment,*  
31 *works with the elderly, an individual with a disability, or an individual*  
32 *with a mental illness, or is a juvenile and the Department of Human Services*  
33 *or the Department of Arkansas State Police has determined that children, the*  
34 *elderly, or individuals with a disability or mental illness under the care of*  
35 *the alleged offender appear to be at risk of maltreatment by the alleged*  
36 *offender, the ~~department~~ Department of Human Services or the Department of*



1 Arkansas State Police may notify the following of the report made to the  
2 Child Abuse Hotline:

- 3 (1) The alleged offender's employer;  
4 (2) The school superintendent, principal, or a person in an  
5 equivalent position where the alleged offender is employed;  
6 (3) The person in charge of a paid or volunteer activity; and  
7 (4) The appropriate licensing or registering authority to the  
8 extent necessary to carry out its official responsibilities.

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10 SECTION 3. Arkansas Code § 12-18-602(b)(2), concerning the initial  
11 investigation of child maltreatment, is amended to read as follows:

12 (2) However, the investigation shall begin within twenty-four  
13 (24) hours if:

14 (A) The allegation is severe maltreatment, excluding an  
15 allegation of:

16 (i) ~~sexual~~ Sexual abuse if the most recent  
17 allegation of sexual abuse was more than one (1) year ago or the alleged  
18 victim does not currently have contact with the alleged offender; ~~or~~

19 (ii) Abandonment and the child is in a facility; or

20 (iii) Cuts, welts, bruises, or suffocation if the  
21 most recent allegation was more than one (1) year ago and the alleged victim  
22 is in the custody of the department; or

23 (B) The allegation is that a child has been subjected to  
24 neglect as defined in § 12-18-103(13)(B).

25

26 SECTION 4. Arkansas Code § 12-18-607(4), concerning an investigation  
27 of child maltreatment when the alleged offender does not reside in the same  
28 house as the victim, is amended to read as follows:

29 (4) ~~The~~ If the report is determined to be true, the names and  
30 conditions of any children of the alleged offender and whether these children  
31 have been maltreated or are at risk of child maltreatment;

32

33 SECTION 5. Arkansas Code § 12-18-608, concerning the interview of an  
34 alleged victim of child maltreatment, is amended to add an additional  
35 subsection to read as follows:

36 (c)(1) If a person conducting an investigation under this chapter is

1 denied access to a child as permitted under this section, the Department of  
 2 Human Services or the Department of Arkansas State Police may petition the  
 3 proper juvenile division of a circuit court for an ex parte order of  
 4 investigation to limit the persons allowed to be present when the child is  
 5 being interviewed.

6 (2) However, upon application to the circuit court and a showing  
 7 of good cause by a parent, caretaker, or person denying unrestricted access  
 8 to a child, the circuit court may issue a written order to stay the order of  
 9 investigation pending a hearing to be held within seventy-two (72) hours.

10  
 11 SECTION 6. Arkansas Code § 12-18-620(e), concerning the release of  
 12 information on pending investigations under the Child Maltreatment Act, is  
 13 amended to read as follows:

14 (e) Information on a pending investigation, including protected health  
 15 information, shall be released upon request to:

- 16 ~~(1) The Department of Human Services;~~  
 17 ~~(2)(1) Law enforcement;~~  
 18 ~~(3)(2) The prosecuting attorney;~~  
 19 ~~(4)(3) The responsible multidisciplinary team;~~  
 20 ~~(5)(4) Attorney ad litem of the alleged victim or offender;~~  
 21 ~~(6)(5) Court-Appointed Special Advocate of the alleged victim or~~  
 22 ~~offender;~~  
 23 ~~(7)(6) Any licensing or registering authority to the extent~~  
 24 ~~necessary to carry out its official responsibilities;~~  
 25 ~~(8)(7) Any department division director or facility director~~  
 26 ~~receiving notice of a Child Abuse Hotline report pursuant to this chapter;~~  
 27 ~~(9)(8) Any facility director receiving notice of a Child Abuse~~  
 28 ~~Hotline report pursuant to this chapter; and~~  
 29 ~~(10)(A)(9)(A) Acting in their official capacities, individual~~  
 30 ~~United States and Arkansas senators and representatives and their authorized~~  
 31 ~~staff members but only if they agree not to permit any redisclosure of the~~  
 32 ~~information.~~

33 (B) However, disclosure shall not be made to any committee  
 34 or legislative body.

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 36 SECTION 7. Arkansas Code Title 12, Chapter 18, Subchapter 6, is

1 amended to add an additional section to read as follows:

2 12-18-621. Right to obtain records during course of the investigation.

3 (a) Upon a request by a person conducting an investigation under this  
4 chapter, the keeper of the record shall provide the person conducting the  
5 investigation with the following:

6 (1) Records showing the nature and extent of the child's present  
7 and past injuries;

8 (2) Records showing previous injuries or child maltreatment of  
9 the child or his or her siblings;

10 (3) School records, as described under § 12-18-610;

11 (4) Personnel and volunteer records, as described under § 12-18-  
12 611; and

13 (5) Results of radiological procedures, photographs, or medical  
14 records, as described under § 12-18-615.

15 (b)(1) If a person conducting an investigation under this chapter is  
16 denied records authorized to be released under subsection (a) of this  
17 section, the Department of Human Services and the Department of Arkansas  
18 State Police may petition the proper juvenile division of circuit court for  
19 an ex parte order of investigation to obtain the records.

20 (2) However, upon application to the circuit court and a showing  
21 of good cause by the keeper of the record, the circuit court may issue a  
22 written order to stay the order to tender records pending a hearing to be  
23 held within seventy-two (72) hours.

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25 SECTION 8. Arkansas Code § 12-18-701(a), concerning the final report  
26 of the conclusion of an investigation of child maltreatment, is amended to  
27 read as follows:

28 (a) The agency responsible for an investigation under this chapter  
29 shall make a complete written report ~~of the investigation by~~ at the  
30 conclusion of a period of thirty (30) days the investigation.

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32 SECTION 9. Arkansas Code § 12-18-707(a), concerning when an alleged  
33 offender of child maltreatment works with certain at risk individuals, is  
34 amended to read as follows:

35 (a) If the child maltreatment investigative determination names as an  
36 alleged offender a person who is engaged in child-related activities or

1 employment, works with the elderly, an individual with a disability, or an  
 2 individual with a mental illness, or is a juvenile and the Department of  
 3 Human Services or the Department of Arkansas State Police has determined that  
 4 children, the elderly, or individuals with a disability or mental illness  
 5 under the care of the alleged offender appear to be at risk of maltreatment  
 6 by the alleged offender, the ~~department~~ Department of Human Services or the  
 7 Department of Arkansas State Police may notify the following of the  
 8 investigative determination:

- 9 (1) An alleged offender's employer;
- 10 (2) A school superintendent, principal, or a person in an  
 11 equivalent position where the alleged offender is employed;
- 12 (3) A person in charge of a paid or volunteer activity; and
- 13 (4) Any licensing or registering authority to the extent  
 14 necessary to carry out its official responsibilities.

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 16 SECTION 10. Arkansas Code § 12-18-710(e) concerning the release of  
 17 information on true investigative determination pending due process under the  
 18 Child Maltreatment Act, is amended to read as follows:

19 (e) Information on a completed investigation, including protected  
 20 health information, pending due process shall be released upon request to:

- 21 (1) The alleged offender;
- 22 ~~(2) The department;~~
- 23 ~~(3)~~ (2) Law enforcement;
- 24 ~~(4)~~ (3) The prosecuting attorney;
- 25 ~~(5)~~ (4) The responsible multidisciplinary team;
- 26 ~~(6)~~ (5) Attorney ad litem for the victim or offender;
- 27 ~~(7)~~ (6) Court-appointed special advocate for the victim or  
 28 offender;
- 29 ~~(8)~~ (7) Any licensing or registering authority to the extent  
 30 necessary to carry out its official responsibilities;
- 31 ~~(9)~~ (8) Any department division director or facility director  
 32 receiving notice of a Child Abuse Hotline report under this chapter;
- 33 ~~(10)~~ (9) Any facility director receiving notice of a Child Abuse  
 34 Hotline report under this chapter; and
- 35 ~~(11)~~ (A) (10) (A) Acting in their official capacities, individual  
 36 United States and Arkansas senators and representatives and their authorized

1 *staff members but only if they agree not to permit any redisclosure of the*  
2 *information.*

3 *(B) However, disclosure shall not be made to any committee*  
4 *or legislative body.*

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6 *SECTION 11. Arkansas Code § 12-18-801(b), concerning the time it takes*  
7 *the Department of Human Services to complete an administrative hearing, is*  
8 *amended to add an additional subdivision to read as follows:*

9 *(4) The administrative law judge shall stay the case upon a*  
10 *request by the Department of Human Services or the Department of Arkansas*  
11 *State Police when there is an ongoing criminal or delinquency investigation*  
12 *or pending criminal charges regarding the occurrence that is the subject of*  
13 *the child maltreatment report.*

14  
15 *SECTION 12. Arkansas Code § 12-18-813(c)(1), concerning the notice*  
16 *given to certain individuals of a true determination finding of child*  
17 *maltreatment, is amended to read as follows:*

18 *(c)(1) Upon satisfaction of due process and if the investigative*  
19 *determination is true, if the offender is engaged in child-related activities*  
20 *or employment, works with the elderly, an individual with a disability, or an*  
21 *individual with a mental illness, or is a juvenile and the ~~department~~*  
22 *Department of Human Services or the Department of Arkansas State Police has*  
23 *determined that children, the elderly, or individuals with a disability or*  
24 *mental illness under the care of the offender appear to be at risk of*  
25 *maltreatment by the offender, the ~~department~~ Department of Human Services or*  
26 *the Department of Arkansas State Police may notify the following of the*  
27 *investigative determination:*

28 *(A) The offender's employer;*

29 *(B) A school superintendent, principal, or a person in an*  
30 *equivalent position where the offender is employed;*

31 *(C) A person in charge of a paid or volunteer activity;*  
32 *and*

33 *(D) Any licensing or registering authority to the extent*  
34 *necessary to carry out its official responsibilities.*

35  
36 *SECTION 13. Arkansas Code § 12-18-1006(a), concerning custody of*

1 *children generally under the Child Maltreatment Act, is amended to read as*  
2 *follows:*

3 *(a)(1) During the course of any child maltreatment investigation,*  
4 *whether conducted by the Department of Human Services, the Department of*  
5 *Arkansas State Police, or local law enforcement, the Department of Human*  
6 *Services shall assess whether or not the child can safely remain in the home.*

7 *(2) If the Department of Arkansas State Police is the*  
8 *investigative agency, it shall disclose information as needed for the*  
9 *Department of Human Services to make an assessment regarding whether a child*  
10 *can safely remain in the home.*

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*/s/J. Woods*