

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

HOUSE BILL 2037

5 By: Representatives Harris, Fite
6

For An Act To Be Entitled

8 AN ACT TO AMEND PROVISIONS OF THE CHILD MALTREATMENT
9 ACT CONCERNING DEFINITIONS, THE RELEASE OF
10 INFORMATION, THE PROCEDURE FOR HEARINGS AND APPEALS,
11 THE PLACEMENT OF CHILDREN, AND REQUIRED NOTIFICATION;
12 AND FOR OTHER PURPOSES.
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Subtitle

15 TO AMEND PROVISIONS OF THE CHILD
16 MALTREATMENT ACT.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 12-18-103(2)(A)(i), concerning the
23 definition of "abuse" under the Child Maltreatment Act, is amended to read as
24 follows:

25 (2)(A) "Abuse" means any of the following acts or omissions by a
26 parent, guardian, custodian, foster parent, person eighteen (18) years of age
27 or older living in the home with a child whether related or unrelated to the
28 child, or any person who is entrusted with the child's care by a parent,
29 guardian, custodian, or foster parent, including, but not limited to, an
30 agent or employee of a public or private residential home, child care
31 facility, public or private school, a significant other of the child's
32 parent, or any person legally responsible for the child's welfare, but
33 excluding the spouse of a minor:

34 (i) Extreme or repeated cruelty to a child;
35

36 SECTION 2. Arkansas Code § 12-18-103(3), concerning the definition of



1 "caretaker" under the Child Maltreatment Act, is amended to read as follows:

2 (3) "Caretaker" means a parent, guardian, custodian, foster
3 parent, or any person ~~thirteen (13)~~ fourteen (14) years of age or older who
4 is entrusted with a child's care by a parent, guardian, custodian, or foster
5 parent, including without limitation, an agent or employee of a public or
6 private residential home, child care facility, public or private school, or
7 any person responsible for a child's welfare, but excluding the spouse of a
8 minor;

9
10 SECTION 3. Arkansas Code § 12-18-103(13)(A), concerning the definition
11 of "neglect" under the Child Maltreatment Act, is amended to read as follows:

12 (13)(A) "Neglect" means those acts or omissions of a parent,
13 guardian, custodian, foster parent, or any person who is entrusted with the
14 child's care by a parent, custodian, guardian, or foster parent, including,
15 but not limited to, an agent or employee of a public or private residential
16 home, child care facility, public or private school, or any person legally
17 responsible under state law for the child's welfare, but excluding the spouse
18 of a minor and the parents of the married minor, which constitute:

19 (i) Failure or refusal to prevent the abuse of the
20 child when the person knows or has reasonable cause to know the child is or
21 has been abused;

22 (ii) Failure or refusal to provide necessary food,
23 clothing, shelter, ~~and education required by law, excluding the failure to~~
24 ~~follow an individualized educational program,~~ or medical treatment necessary
25 for the child's well-being, except when the failure or refusal is caused
26 primarily by the financial inability of the person legally responsible and no
27 services for relief have been offered;

28 (iii) Failure to take reasonable action to protect
29 the child from abandonment, abuse, sexual abuse, sexual exploitation,
30 neglect, or parental unfitness when the existence of the condition was known
31 or should have been known;

32 (iv) Failure or irremediable inability to provide
33 for the essential and necessary physical, mental, or emotional needs of the
34 child, including the failure to provide a shelter that does not pose a risk
35 to the health or safety of the child;

36 (v) Failure to provide for the child's care and

1 maintenance, proper or necessary support, or medical, surgical, or other
 2 necessary care;

3 (vi) Failure, although able, to assume
 4 responsibility for the care and custody of the child or to participate in a
 5 plan to assume such responsibility; ~~or~~

6 (vii) Failure to appropriately supervise the child
 7 that results in the child's being left alone ~~at~~;

8 (a) At an inappropriate age ~~or in~~
 9 ~~inappropriate circumstances~~ creating a dangerous situation or a situation
 10 that puts the child at risk of harm; ~~or~~

11 (b) In inappropriate circumstances creating a
 12 dangerous situation or a situation that puts the child at risk or harm;

13 (viii) Failure to appropriately supervise the child
 14 that results in the child being placed in:

15 (a) Inappropriate circumstances creating a
 16 dangerous situation; or

17 (b) A situation that puts the child at risk of
 18 harm; or

19 (ix)(a) Failure to ensure a child between six (6)
 20 years of age and seventeen (17) years of age is enrolled in school or is
 21 being legally home schooled; and

22 (b) As a result of an act or omission by the
 23 child's parent or guardian, the child is habitually and without justification
 24 absent from school.

25
 26 SECTION 4. Arkansas Code § 12-18-103(18)(A)(i), concerning the
 27 definition of "sexual abuse" under the Child Maltreatment Act, is amended to
 28 read as follows:

29 (A) By a person ~~thirteen (13)~~ fourteen (14) years of age
 30 or older to a person younger than eighteen (18) years of age:

31 (i) Sexual intercourse, deviate sexual
 32 activity, or sexual contact by forcible compulsion;

33
 34 SECTION 5. Arkansas Code § 12-18-103(18)(E)(i), concerning the
 35 definition of "sexual abuse" under the Child Maltreatment Act, is amended to
 36 read as follows:

1 (E) By a person younger than ~~thirteen (13)~~ fourteen (14)
 2 years of age to a person younger than eighteen (18) years of age:

3 (i) Sexual intercourse, deviate sexual
 4 activity, or sexual contact by forcible compulsion; or

5
 6 SECTION 6. Arkansas Code § 12-18-103(21)-(23), concerning definitions
 7 under the Child Maltreatment Act, is amended to read as follows:

8 (21) "Significant other" means a person:

9 (A) With whom the parent shares a household; or

10 (B) Who has a relationship with the parent that results in
 11 the person acting in loco parentis with respect to the parent's child or
 12 children, regardless of living arrangements;

13 (22) "Subject of the report" means:

14 (A) The offender;

15 (B) The custodial and noncustodial parents,
 16 guardians, and legal custodians of the child who is subject to suspected
 17 maltreatment; and

18 (C) The child who is the subject of suspected
 19 maltreatment;

20 ~~(22)~~(23) "Underaged juvenile offender" means any child
 21 younger than ~~thirteen (13)~~ fourteen (14) years of age for whom a report of
 22 sexual abuse has been determined to be true for sexual abuse to another
 23 child; and

24 ~~(23)~~(24) "Voyeurism" means looking, for the purpose of
 25 sexual arousal or gratification, into a private location or place in which a
 26 child may reasonably be expected to be nude or partially nude.

27
 28 SECTION 7. Arkansas Code § 12-18-104, concerning confidentiality, is
 29 amended to add additional subsections to read as follows:

30 (b) Any data, records, reports, or documents released under this
 31 chapter by the Department of Human Services are confidential and shall not be
 32 subject to disclosure under the Freedom of Information Act of 1967, § 25-19-
 33 101 et seq.

34 (c) Any data, records, reports, or documents released under this
 35 chapter to law enforcement, a prosecuting attorney, or a court by the
 36 Department of Human Services are confidential and shall be sealed and not re-

1 disclosed without a protective order to ensure the items of evidence for
 2 which there is a reasonable expectation of privacy are not distributed to a
 3 person or institution without a legitimate interest in the evidence, provided
 4 that nothing in this chapter is deemed to abrogate the right of discovery in
 5 a criminal case under the Arkansas Rules of Criminal Procedure or the law.

6
 7 SECTION 8. Arkansas Code § 12-18-306 is amended to read as follows:

8 12-18-306. Reports naming an adult as the victim.

9 The Child Abuse Hotline shall accept a report of child sexual abuse,
 10 sexual contact, or sexual exploitation naming ~~an adult~~ as the victim a person
 11 who is now an adult only if:

- 12 (1) The alleged offender is a caretaker of a child; and
- 13 (2) The person making the report is one (1) of the

14 following:

- 15 (A) The adult victim; or
- 16 (B) A law enforcement officer;
- 17 (C) ~~The adult victim's counselor or therapist;~~
- 18 ~~(D) The alleged offender's counselor or therapist;~~
- 19 ~~or~~
- 20 ~~(E)~~ The alleged offender.

21
 22 SECTION 9. Arkansas Code § 12-18-309 is amended to read as follows:

23 12-18-309. Reports alleging that a child is ~~dependent-neglected~~
 24 dependent.

25 The Child Abuse Hotline shall accept telephone calls or other
 26 communications alleging that a child is a ~~dependent-neglected~~ dependent
 27 juvenile, as defined in § ~~9-27-303(18)~~ 9-27-303, and shall immediately refer
 28 this information to the Department of Human Services.

29
 30 SECTION 10. Arkansas Code § 12-18-506 is amended to read as follows:

31 12-18-506. Notice when the alleged offender works with children, the
 32 elderly, an individual with a disability, an individual with a mental
 33 illness, ~~or~~ is engaged in child-related activities, or is a juvenile.

34 (a) If the Child Abuse Hotline receives a report naming as an alleged
 35 offender a person who is engaged in child-related activities or employment,
 36 works with the elderly, an individual with a disabilities, an individual with

1 a mental illness, or is a juvenile and the Department of Human Services has
2 determined that children, the elderly, or individuals with a disability or
3 mental illness under the care of the alleged offender appear to be at risk of
4 maltreatment by the alleged offender, the department may notify the following
5 of the report made to the Child Abuse Hotline:

6 (1) The alleged offender's employer;

7 (2) The school superintendent, principal, or a person in an
8 equivalent position where the alleged offender is employed;

9 (3) The person in charge of a paid or volunteer activity; and

10 (4) The appropriate licensing or registering authority to the
11 extent necessary to carry out its official responsibilities.

12 (b) The department shall promulgate rules ~~that will~~ to ensure that
13 notification required under this section is specifically approved by a
14 responsible manager in the department before the notification is made.

15 (c) If the department, based on information gathered during the course
16 of the investigation, determines that there is no preponderance of the
17 evidence indicating that children under the care of the alleged offender
18 appear to be at risk, the department shall immediately notify the previously
19 notified person or entity of that information.

20 (d)(1) If the Child Abuse Hotline receives a report naming a juvenile
21 as an alleged offender who is in a setting or circumstances where other
22 children may be at risk, the department may notify the entity or person in
23 charge about the Child Abuse Hotline report.

24 (2) The department shall promulgate rules to ensure that the
25 notification required under this section is specifically approved by a
26 responsible manager in the department before notification is made.

27 (3) The department shall immediately notify the person or entity
28 notified under subdivision (d)(1) of this section that there is no
29 preponderance of the evidence indicating that children may be at risk if the
30 department makes such determination based on information gathered during the
31 course of the investigation.

32
33 SECTION 11. Arkansas Code § 12-18-507, concerning notice when the
34 alleged victim is a resident of a facility licensed, registered, or operated
35 by the state, is amended to add an additional subsection to read as follows:

36 (c) If the Child Abuse Hotline receives a report that a child in the

1 custody of the department has been subjected to child maltreatment while in
2 the custody of the department, the department shall immediately notify the
3 appropriate division director of the Child Abuse Hotline's receipt of an
4 initial report of suspected child maltreatment.

5
6 SECTION 12. Arkansas Code § 12-18-605(a)(1), concerning investigative
7 interviews, is amended to read as follows:

8 (1) The child as provided under ~~subsection (b) of this section §~~
9 12-18-608;

10
11 SECTION 13. Arkansas Code § 12-18-607(4), concerning when the alleged
12 offender is not a family member or not living in the home with the alleged
13 victim, is amended to read as follows:

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

17
18 SECTION 14. Arkansas Code § 12-18-608 is amended to read as follows:
19 12-18-608. Interview of the alleged child victim, siblings of a child
20 victim, or any other children in the home or under the care of an alleged
21 offender.

22 (a) A person conducting an ~~investigation of~~ interview with a child
23 victim, sibling of a child victim, or any other children in the home or under
24 the care of an alleged offender under this chapter shall have the discretion:

25 (1) In the child's best interest, to limit the persons
26 allowed to be present when a child is being interviewed concerning
27 allegations of child maltreatment; and

28 (2) As it relates to the integrity of the investigation,
29 to limit persons present during an interview.

30 (b)(1) The interview with the child victim, siblings of a child
31 victim, or any other children in the home or under the care of an alleged
32 offender shall be conducted separate and apart from the alleged offender or
33 any representative or attorney for the alleged offender.

34 (2) However, if the age or abilities of the child victim
35 render an interview impossible, the investigation shall include observation
36 of the child.

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SECTION 15. Arkansas Code § 12-18-615 is amended to read as follows:

12-18-615. Radiology procedures, photographs, ~~videotapes~~ electronic media, and medical records.

(a) A person who is required to make a report under this chapter may take or cause to be taken radiology procedures and photographs or compile medical records that may be relevant as to the existence or extent of child maltreatment.

(b) A hospital, ~~or clinic, child safety center, or the Department of Human Services~~ may make ~~videotapes~~ electronic media that may be relevant as to the existence or extent of child maltreatment.

(c) The Department of Human Services or law enforcement officials shall be provided at no cost a copy of the results of radiology procedures, ~~videotapes~~ electronic media, photographs, or medical records upon request.

SECTION 16. Arkansas Code § 12-18-702(2)(C)(iv), concerning an investigative determination under the Child Maltreatment Act, is repealed.

~~(iv) The report was true for sexual abuse by an offender at least thirteen (13) years of age and less than sixteen (16) years of age and the offender has not been adjudicated delinquent or has not pleaded guilty, nolo contendere, or been found guilty of an offense on the same set of facts as contained in the report; or~~

SECTION 17. Arkansas Code § 12-18-703, concerning notice generally under the Child Maltreatment Act, is amended to add an additional subsection to read as follows:

(c)(1) The request for an administrative hearing shall be made to the department no later than thirty (30) days of:

(A) Service by a process server;

(B) Receipt of the completed certified mailing of the notice of the investigative determination; or

(C) Actual notice of the investigative determination and the process to appeal.

(2) An alleged offender is not entitled to an automatic administrative hearing if:

(A) The allegations are determined to be true; and

1 (B) The alleged offender's name is exempt from placement
2 in the Child Maltreatment Central Registry.

3
4 SECTION 18. Arkansas Code § 12-18-704 is amended to read as follows:
5 12-18-704. Notice if the investigative determination is true but
6 exempted and the alleged offender is a child.

7 If the investigative determination of the report was determined true
8 but exempted under § 12-18-702(2)(C)(ii) ~~or § 12-18-702(2)(C)(iv)~~, and the
9 alleged offender is a child at the time the act or omission occurred, the
10 Department of Human Services shall notify the legal parents and legal
11 guardians of the investigative determination and that the child's name shall
12 not be placed in the Child Maltreatment Central Registry, and the alleged
13 offender may petition for an administrative hearing.

14
15 SECTION 19. Arkansas Code § 12-18-705 is amended to read as follows:
16 12-18-705. Notice if the alleged offender is ~~under~~ at least fourteen
17 years of age and less than eighteen years of age.

18 (a) If the report was determined true and the alleged offender is
19 ~~under~~ at least fourteen (14) years of age and less than eighteen (18) years
20 of age at the time the act or omission occurred, a notice shall be given as
21 provided in this section.

22 (b) The notice under this section shall be provided as follows:

23 (1) If the alleged offender is in foster care, the Department of
24 Human Services shall notify the alleged offender's counsel and the legal
25 parents, legal guardians, and current foster parents of the alleged offender;
26 or

27 (2) If the alleged offender is not in foster care, the
28 department shall notify the legal parents and legal guardians of the alleged
29 offender.

30 (c) The notice under this section shall include the following:

31 (1) The investigative determination, excluding data that would
32 identify the person who made the report to the Child Abuse Hotline;

33 (2) A statement that the matter has been referred for an
34 automatic administrative hearing that may be waived only by the alleged
35 offender or his or her parent or legal guardian in writing;

36 (3) The potential consequences to the alleged offender if the

1 alleged offender's name is placed in the Child Maltreatment Central Registry;

2 (4) A statement that the alleged offender has a right to have an
3 attorney and if the person cannot afford an attorney to contact Legal
4 Services;

5 (5) A statement that if the alleged offender's name is placed on
6 the registry, the alleged offender's name may be automatically removed after
7 one (1) year or the alleged offender may be able to petition for removal
8 after one (1) year, depending on the finding;

9 (6) A statement that the administrative hearing may take place
10 in person if requested by the alleged offender, the alleged offender's parent
11 or guardian, or the alleged offender's attorney within thirty (30) days from
12 the date that the alleged offender receives notification under this section;
13 and

14 (7) The name of the person making the notification, his or her
15 title or position, and current contact information.

16
17 SECTION 20. Arkansas Code § 12-18-707 is amended to read as follows:

18 12-18-707. Notice when the alleged offender works with children, the
19 elderly, an individual with a disability, an individual with a mental
20 illness, ~~or~~ is engaged in child-related activities, or is a juvenile.

21 (a) If the child maltreatment investigative determination names as an
22 alleged offender a person who is engaged in child-related activities or
23 employment, works with the elderly, an individual with a disability, an
24 individual with a mental illness, or is a juvenile and the Department of
25 Human Services has determined that children, the elderly, or individuals with
26 a disabilities or mental illness under the care of the alleged offender
27 appear to be at risk of maltreatment by the alleged offender, the department
28 may notify the following of the investigative determination:

29 (1) An alleged offender's employer;

30 (2) A school superintendent, principal, or a person in an
31 equivalent position where the alleged offender is employed;

32 (3) A person in charge of a paid or volunteer activity;

33 and

34 (4) Any licensing or registering authority to the extent
35 necessary to carry out its official responsibilities.

36 (b) The department shall promulgate rules that will ensure that

1 notification required under this section is specifically approved by a
2 responsible manager in the department before the notification is made.

3 (c) If the department later determines that there is no preponderance
4 of the evidence indicating that children under the care of the alleged
5 offender appear to be at risk, the department shall immediately notify the
6 previously notified person or entity of that information.

7 (d)(1) If the child maltreatment investigation names as an alleged
8 offender a juvenile who is in a setting or circumstance where other children
9 appear to be at risk, the department may notify the entity or person in
10 charge about the investigative determination.

11 (2) The department shall promulgate rules to ensure that the
12 notification required under this section is specifically approved by a
13 responsible manager in the department before notification is made.

14 (3) If the department, based on information gathered during the
15 course of the investigation, determines that there is no preponderance of the
16 evidence indicating that children appear to be at risk, the department shall
17 immediately notify the previously notified entity or person of that
18 information.

19
20 SECTION 21. Arkansas Code § 12-18-711(a), concerning fee for copying
21 an investigative file under the Child Maltreatment Act, is amended to read as
22 follows:

23 (a) Except as provided under subsection (b) of this section, the
24 Department of Human Services may charge:

25 (1) A reasonable fee not to exceed ten dollars (\$10.00)
26 for researching, copying, ~~and~~ or mailing records ~~of an~~ from a child
27 maltreatment investigative file under this chapter; and

28 (2) A reasonable fee for reproducing copies of ~~tapes~~
29 electronic media, such as audio tapes, video recordings, compact discs, or
30 DVDs and photographs.

31
32 SECTION 22. Arkansas Code § 12-18-801 is amended to read as follows:

33 12-18-801. Time to complete administrative hearing.

34 (a)(1)(A) The administrative hearing process under this chapter must
35 be completed within one hundred eighty (180) days from the date of the
36 receipt of the request for a hearing, ~~or the administrative law judge shall~~

1 ~~enter an order overturning the investigative agency's investigative~~
 2 ~~determination of true.~~

3 (B) However, delays in completing the administrative
 4 hearing that are attributable to either party shall not count against the
 5 limit of one hundred eighty (180) days if the administrative law judge
 6 determines that good cause for the delay is shown by the party requesting the
 7 delay and the request for delay is made in writing and delivered to the
 8 Office of Appeals and Hearings of the Department of Human Services and all
 9 other parties.

10 (2)(A) ~~If an order is entered overturning the investigating~~
 11 ~~agency's investigative determination of true because of the failure to~~
 12 ~~complete the administrative hearing process within one hundred eighty (180)~~
 13 ~~days, the~~ The Department of Human Services shall report any failures to
 14 comply with this subsection for each quarter to the House Committee on Aging,
 15 Children and Youth, Legislative and Military Affairs and the Senate Interim
 16 Committee on Children and Youth.

17 (B) The quarterly report to the House Committee on Aging,
 18 Children and Youth, Legislative and Military Affairs and the Senate Interim
 19 Committee on Children and Youth shall include a written explanation of the
 20 failure of the department.

21 (b)(1) The limit of one hundred eighty (180) days for an
 22 administrative hearing under this chapter shall not apply if ~~there is an~~
 23 ~~ongoing criminal or delinquency investigation or criminal or delinquency~~
 24 ~~charges have been filed or will be filed regarding the occurrence that is the~~
 25 ~~subject of the child maltreatment report~~ upon motion of any party a stay is
 26 granted as permitted under this section.

27 (2)(A) ~~In a case described under subdivision (b)(1) of this~~
 28 ~~section, the administrative hearing shall be stayed pending final disposition~~
 29 ~~of the criminal or delinquency proceedings~~ If there is an ongoing criminal or
 30 delinquency investigation regarding the occurrence that is the subject of the
 31 child maltreatment report and a motion for a stay is accompanied by a written
 32 verification of the ongoing investigation by a prosecuting attorney or law
 33 enforcement agency involved in the criminal case, the case shall be stayed
 34 for a period of not more than one (1) year from the date the administrative
 35 hearing was requested.

36 (B) The stay shall be lifted and the case set for a

1 hearing upon the earlier of:

2 (i) A petition and showing by any party that there
3 is good cause to conduct the administrative hearing before the conclusion of
4 the criminal or delinquency investigation;

5 (ii) The notification by a party of the conclusion
6 of the criminal or delinquency investigation; or

7 (iii) The expiration of one (1) year from the date
8 the administrative hearing was requested.

9 (C) A stay granted under this section may be extended
10 after the one-year expiration upon a written verification from the requesting
11 party that the criminal or delinquency investigation or proceeding is still
12 ongoing.

13 (3)(A) If a criminal or delinquency proceeding is filed
14 regarding the occurrence that is the subject of the child maltreatment report
15 and a motion for a stay is accompanied by the written notification of the
16 date the criminal or delinquency proceeding was filed by a party, the
17 administrative hearing shall be stayed for a period of not more than one (1)
18 year from the date the criminal or delinquency proceeding is filed.

19 (B) The stay shall be lifted and the case set for a
20 hearing upon the earlier of:

21 (i) A petition and showing by any party that there
22 is good cause to conduct the administrative hearing before the conclusion of
23 the criminal or delinquency proceeding;

24 (ii) The final disposition of the criminal or
25 delinquency proceeding; or

26 (iii) The expiration of one (1) year from the date
27 the criminal or delinquency proceeding was filed.

28 (C) A stay granted under this section may be extended
29 after the one year expiration upon a written verification from the requesting
30 party that the criminal or delinquency investigation or proceeding is still
31 ongoing.

32 (D)(i) It is the duty of the petitioner to report the
33 final disposition of the criminal or delinquency proceeding to the Office of
34 Appeals and Hearings of the Department of Human Services for a stay granted
35 under subdivision (3) of this section.

36 (ii) The case shall be dismissed and the

1 petitioner's name placed on the Child Maltreatment Central Registry if the
2 petitioner fails to provide a file-marked copy of the final disposition of
3 the criminal or delinquency proceeding within thirty (30) days of the entry
4 of the final disposition.

5 ~~It shall be the duty of the petitioner to report the final disposition of the~~
6 ~~criminal or delinquency proceeding to the department.~~

7 ~~(4) Each report shall include a file-marked copy of the criminal~~
8 ~~or delinquency disposition.~~

9 ~~(5) The request for an administrative hearing shall be deemed~~
10 ~~waived if the petitioner fails to report the disposition of the criminal or~~
11 ~~delinquency proceedings within thirty (30) days of the entry of a dispositive~~
12 ~~judgment or order.~~

13 ~~(6) If the criminal or delinquency proceedings have not reached~~
14 ~~a final outcome within twelve (12) months of the filing of the request for~~
15 ~~administrative hearing, the administrative appeal will be deemed waived if~~
16 ~~the petitioner fails to provide a written statement of the status of the~~
17 ~~criminal or delinquency proceedings every sixty (60) days and a disposition~~
18 ~~report within thirty (30) days of the entry of a dispositive judgment or~~
19 ~~order.~~

20
21 SECTION 23. Arkansas Code § 12-18-805(b), concerning video
22 teleconferencing and teleconferencing options, is amended to read as follows:

23 (b) If any party requests an in-person administrative hearing within
24 thirty (30) days from the date that the party receives notification of the
25 investigative determination, the in-person administrative hearing shall be
26 conducted in an office of the Department of Human Services nearest to the
27 petitioner's residence unless the administrative law judge notifies the
28 parties that the administrative hearing will be conducted via video
29 teleconference.

30
31 SECTION 24. Arkansas Code § 12-18-807 is amended to read as follows:

32 12-18-807. Administrative judgments and adjudications.

33 ~~(a) A certified copy of a judgment or an adjudication from a court of~~
34 ~~competent jurisdiction dealing with the same subject matter as an issue~~
35 ~~concerned in an administrative hearing under this chapter shall be filed with~~
36 ~~the Office of Appeals and Hearings of the Department of Human Services If a~~

1 court of competent jurisdiction adjudicates a question that is an issue to be
 2 determined by the Office of Appeals and Hearings of the Department of Human
 3 Services, the prevailing party to the judicial adjudication who is also a
 4 party to the administrative adjudication shall file a certified copy of the
 5 judicial adjudication with the office.

6 (b)(1) ~~A decision on any identical issue shall be rendered without an~~
 7 ~~administrative hearing and shall be consistent with the judgment or~~
 8 ~~adjudication~~ The office shall determine whether and to what extent the
 9 judicial adjudication has preclusive effect on the administrative
 10 adjudication by applying the principles of claim preclusion and issue
 11 preclusion.

12 (2) ~~However, if the judgment or adjudication of the court~~
 13 ~~is reversed or vacated and notice of the reversal or vacation is provided to~~
 14 ~~the department, the department shall set the matter for an administrative~~
 15 ~~hearing~~ The office shall not readjudicate any precluded issues.

16 (c) If the judicial adjudication is modified or reversed, the office
 17 shall determine whether and to what extent any issue in the administrative
 18 adjudication remains precluded, and shall schedule a hearing with respect to
 19 any matter that is no longer precluded.

20
 21 SECTION 25. Arkansas Code § 12-18-811(d)(1), concerning expedited
 22 administrative hearings under the Child Maltreatment Act, is amended to read
 23 as follows:

24 (d)(1) The department may charge:

25 (A) A reasonable fee not to exceed ten dollars
 26 (\$10.00) for researching, copying, ~~and or~~ mailing records of the from a child
 27 maltreatment investigative file; and

28 (B) A reasonable fee for reproducing copies of ~~tapes~~
 29 electronic media, such as audio tapes, video tapes, compact discs, DVDs, and
 30 photographs.

31
 32 SECTION 26. Arkansas Code § 12-18-812(c), concerning preliminary
 33 administrative hearings under the Child Maltreatment Act, is amended to read
 34 as follows:

35 (c)(1) The department shall notify the administrative law judge of any
 36 known criminal action related to the investigation.

1 (2) A preliminary administrative hearing shall proceed even if:

2 (A) There is an ongoing criminal or delinquency
 3 investigation regarding the occurrence that is the subject of the child
 4 maltreatment investigation; or

5 (B) Criminal or delinquency charges are filed or will be
 6 filed regarding the occurrence that is the subject of the child maltreatment
 7 investigation.

8
 9 SECTION 27. Arkansas Code § 12-18-813(c), concerning notice of
 10 investigative determination upon satisfaction of due process under the Child
 11 Maltreatment Act, is amended to read as follows:

12 (c)(1) Upon satisfaction of due process and if the investigative
 13 determination is true, if the offender is engaged in child-related activities
 14 or employment, works with the elderly, an individual with a disability, an
 15 individual with a mental illness, or is a juvenile and the department has
 16 determined that children, the elderly, or individuals with a disabilities or
 17 mental illness under the care of the offender appear to be at risk of
 18 maltreatment by the offender, the department may notify the following of the
 19 investigative determination:

20 (A) The offender's employer;

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

23 (C) A person in charge of a paid or volunteer activity;

24 and

25 (D) Any licensing or registering authority to the extent
 26 necessary to carry out its official responsibilities.

27 (2) The department shall promulgate rules that shall ensure that
 28 notification required under this subsection is specifically approved by a
 29 responsible manager in the department before the notification is made.

30 (3) If the department later determines that there is not a
 31 preponderance of the evidence indicating that children under the care of the
 32 alleged offender appear to be at risk, the department shall immediately
 33 notify the previously notified person or entity of that information.

34 (4)(A) Upon satisfaction of due process, the department may
 35 notify the entity or person in charge of the investigative determination if:

36 (i) The investigative determination is true; and

1 (ii) The alleged offender is a juvenile who is in a
2 setting or circumstance where other children appear to be at risk.

3 (B) The department shall promulgate rules to ensure that
4 notification required under this section is specifically approved by a
5 responsible manager in the department before notification is made.

6 (C) If the department later determines that there is no
7 preponderance of the evidence indicating that children appear to be at risk,
8 the department shall immediately notify the previously notified entity or
9 person of that information.

10
11 SECTION 28. Arkansas Code Title 12, Chapter 18, Subchapter 8, is
12 amended to add an additional section to read as follows:

13 12-18-814. Automatic hearings for juveniles.

14 (a) The Division of Children and Family Services of the Department of
15 Human Services shall provide written referrals to the Office of Appeals and
16 Hearings of the Department of Human Services identifying each juvenile that
17 is:

18 (1) The subject of a true child maltreatment finding; and

19 (2) Subject to placement on the Child Maltreatment Central
20 Registry.

21 (b) The office shall schedule an administrative hearing for each
22 juvenile identified under subsection (a) of this section.

23 (c) An administrative hearing scheduled under this section shall be
24 conducted in accordance with the administrative hearing provisions of this
25 subchapter except that the office shall not dismiss the case and place the
26 petitioner's name on the Child Maltreatment Central Registry based solely on
27 the petitioner's failure to provide a file-marked copy of the final
28 disposition of the criminal or delinquency proceeding within thirty (30) days
29 of the entry of the final disposition.

30
31 SECTION 29. Arkansas Code § 12-18-909(b), concerning the availability
32 of true reports of child maltreatment from the central registry, is amended
33 to read as follows:

34 (b)(1) The Department of Human Services may charge:

35 (A) A reasonable fee not to exceed ten dollars (\$10.00)
36 for researching, copying, ~~and or~~ mailing records ~~of the~~ from a child

1 ~~maltreatment~~ investigative ~~files of child maltreatment cases~~ file; and

2 (B) A reasonable fee for reproducing copies of ~~tapes~~
 3 electronic media, such as audio tables, video tapes, compact discs, DVDs, and
 4 photographs.

5 (2) A fee may not be charged to:

6 (A) A nonprofit or volunteer agency that requests searches
 7 of the investigative files; or

8 (B) A person who is indigent.

9
 10 SECTION 30. Arkansas Code § 12-18-909(g)(1), concerning the
 11 availability of true reports of child maltreatment from the central registry,
 12 is amended to read as follows:

13 (g) A report made under this chapter that is determined to be true, as
 14 well as any other information obtained, including protected health
 15 information and the administrative hearing decision, and a report written or
 16 photograph or radiological procedure taken concerning a true report in the
 17 possession of the Department of Human Services shall be confidential and
 18 shall be made available only to:

19 (1) The administration of the adoption, foster care, children's
 20 and adult protective services programs, or child care licensing programs of
 21 any state;

22
 23 SECTION 31. Arkansas Code § 12-18-909(g)(11)(B)(ii), concerning the
 24 availability of true reports of child maltreatment from the central registry,
 25 is amended to read as follows:

26 (ii) The court may disclose the report to parties
 27 under the terms ~~of~~ of a protective order issued by the court; ~~;~~

28
 29 SECTION 32. Arkansas Code § 12-18-910(b)(1), concerning the
 30 availability of screened-out and unsubstantiated reports under the Child
 31 Maltreatment Act, is amended to read as follows:

32 (b)(1) The Department of Human Services may charge:

33 (A) A reasonable fee not to exceed ten dollars (\$10.00)
 34 for researching, copying, ~~and or~~ mailing records ~~of the~~ from a child
 35 maltreatment investigative ~~files of child maltreatment cases~~ file; and

36 (B) A reasonable fee for reproducing copies of ~~tapes~~

1 electronic media, such as audio tapes, video tapes, compact discs, DVDs, and
2 photographs.

3
4 SECTION 33. Arkansas Code § 12-18-910(f)(1), concerning the
5 availability of screened-out and unsubstantiated reports under the Child
6 Maltreatment Act, is amended to read as follows:

7 (f) An unsubstantiated report, including protected health information
8 and the administrative hearing decision, shall be confidential and shall be
9 disclosed only to:

- 10 (1) The prosecuting attorney;