

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1366 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: S3/19/09 S3/31/09

A Bill

SENATE BILL 779

5 By: Senator P. Malone
6 By: Representative D. Hutchinson
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For An Act To Be Entitled

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10 AN ACT TO AMEND THE LAW REGARDING THE
11 AVAILABILITY OF RECORDS OF CHILDREN'S ADVOCACY
12 CENTERS; AND FOR OTHER PURPOSES.
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Subtitle

14
15 TO AMEND THE LAW REGARDING THE
16 AVAILABILITY OF RECORDS OF CHILDREN'S
17 ADVOCACY CENTERS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 20-78-106. Availability of records of children's advocacy centers.

23 (a) Reports, correspondence, memoranda, case histories, medical
24 records, or other materials compiled or gathered by children's advocacy
25 centers performing the services described in § 20-78-105 shall be
26 confidential and shall not be released or otherwise made available except:

27 (1) Medical records may be released to the attorney representing
28 the abused child in a custody or juvenile case;

29 (2) For any audit or similar activity conducted with the
30 administration of any plan or program by any governmental agency which is
31 authorized by law to conduct the audit or activity;

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

34 (4) To any licensing or registering authority to the extent
35 necessary to carry out its official responsibilities, but the information



1 shall be maintained as confidential;

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

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

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

8 (6) To the Department of Human Services;

9 (7) To a court-appointed special advocate volunteer with a valid
10 court order;

11 (8) All records may be released to an attorney in any criminal,
12 civil, or administrative proceeding or to a party in a criminal, civil, or
13 administrative proceeding if the party is not represented by an attorney as
14 permitted under criminal, civil, or administrative discovery rules upon a
15 finding by the court that:

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

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

21 (9) Medical records may be released to a person providing
22 medical or psychiatric care or services to the abused child.

23 (b)(1) Except as provided in subdivision (b)(2) of this section, no
24 person or agency to whom disclosure is made may disclose to any other person
25 reports or other information obtained under this section.

26 (2) Law enforcement agencies, a prosecuting attorney, the
27 department, a court of competent jurisdiction, or the Attorney General may
28 release reports or information obtained under this section. However, any
29 report or information released under this subsection shall remain
30 confidential.

31 (c)(1) Nothing in this section shall deny or diminish the right of an
32 attorney for a party or a party to a criminal, civil, or administrative
33 proceeding to receive discovery as provided in this section in order for the
34 attorney or party to:

35 ~~(1)(A)~~ Prepare for trial;

36 ~~(2)(B)~~ File appropriate pleadings; or

1 ~~(3)(C)~~ Present evidence in court.

2 ~~(d)~~ A disclosure of information in violation of this section is a
3 Class C misdemeanor.

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

- 11 (i) Audio or videotapes of a child witness;
- 12 (ii) Photographs of a child witness;
- 13 (iii) Name of child victim; and
- 14 (iv) Medical records of child victim.

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

- 21 (i) Audio or videotapes of a child witness;
- 22 (ii) Photographs of a child witness;
- 23 (iii) Name of child victim; and
- 24 (iv) Medical records of child victim.

25 (C)(i) The circuit court may enforce the orders with
26 criminal or civil contempt or sanctions, as appropriate.

27 (ii) The circuit court may modify or vacate a
28 protective order for good cause.

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/s/ P. Malone

APPROVED: 4/9/2009