

Stricken language would be deleted from and underlined language would be added to present law.
Act 1006 of the Regular Session

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H3/22/13
A Bill

HOUSE BILL 2037

By: Representatives Harris, Fite

For An Act To Be Entitled

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

Subtitle

TO AMEND PROVISIONS OF THE CHILD MALTREATMENT ACT.

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

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

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

(i) Extreme or repeated cruelty to a child;

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Inappropriate circumstances creating a dangerous situation; or

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

(ix)(a) Failure to ensure a child between six (6) years of age and seventeen (17) years of age is enrolled in school or is being legally home schooled or as a result of an act or omission by the child's parent or guardian, the child is habitually and without justification absent from school.

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

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

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

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

(E) By a person younger than ~~thirteen (13)~~ fourteen (14)

years of age to a person younger than eighteen (18) years of age:

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

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

(21) "Significant other" means a person:

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

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

(22) "Subject of the report" means:

(A) The offender;

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

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

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

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

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

(b) Any data, records, reports, or documents released under this chapter to law enforcement, a prosecuting attorney, or a court by the Department of Human Services are confidential and shall be sealed and not re-disclosed without a protective order to ensure the items of evidence for which there is a reasonable expectation of privacy are not distributed to a person or institution without a legitimate interest in the evidence, provided that nothing in this chapter is deemed to abrogate the right of discovery in a criminal case under the Arkansas Rules of Criminal Procedure or the law.

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

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

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

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

following:

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

or

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

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

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

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

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

(a) If the Child Abuse Hotline receives a report naming as an alleged offender a person who is engaged in child-related activities or employment, works with the elderly, an individual with a disabilities, an individual with a mental illness, or is a juvenile and the Department of Human Services has determined that children, the elderly, or individuals with a disability or mental illness under the care of the alleged offender appear to be at risk of maltreatment by the alleged offender, the department may notify the following of the report made to the Child Abuse Hotline:

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

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

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

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

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

(3) If the department, based on information gathered during the course of the investigation, determines that there is no preponderance of the evidence indicating that children appear to be at risk, the department shall immediately notify the person or entity originally notified under subdivision (d)(1) of this section of that information.

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

(c) If the Child Abuse Hotline receives a report that a child in the custody of the department has been subjected to child maltreatment while in the custody of the department, the department shall immediately notify the appropriate division director of the Child Abuse Hotline's receipt of an initial report of suspected child maltreatment.

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

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

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

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

SECTION 14. Arkansas Code § 12-18-608 is amended to read as follows:

12-18-608. Interview of the alleged child victim, siblings of a child victim, or any other children in the home or under the care of an alleged offender.

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

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

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

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

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

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 amended to read as follows:

(iv) ~~The report was true for sexual abuse by an offender at least thirteen (13) years of age and less than sixteen (16) is a juvenile less than fourteen (14) 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 notice of the investigative determination shall include a statement that the request for an administrative hearing shall be made within thirty (30) days of the receipt of notice under subsection (b) of this section.

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

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

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

SECTION 18. Arkansas Code § 12-18-704 is amended to read as follows:

12-18-704. Notice if the investigative determination is true but exempted and the alleged offender is a child.

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

SECTION 19. Arkansas Code § 12-18-705 is amended to read as follows:

12-18-705. Notice if the alleged offender is ~~under~~ at least fourteen years of age and less than eighteen years of age.

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

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

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

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

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

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

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

(3) The potential consequences to the alleged offender if the alleged offender's name is placed in the Child Maltreatment Central Registry;

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

(5) A statement that if the alleged offender's name is placed on the registry, the alleged offender's name may be automatically removed after

one (1) year or the alleged offender may be able to petition for removal after one (1) year, depending on the finding;

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

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

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

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

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

(1) An alleged offender's employer;

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

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

and

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

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

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

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

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

(3) If the department later determines that there is no preponderance of the evidence indicating that other children are at risk or if the investigative determination is overturned, the department shall immediately notify the entity or person originally notified under subdivision (d)(1) of this section of that information.

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

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

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

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

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

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

(a)(1)(A) The administrative hearing ~~process under this chapter must be completed~~ shall begin within one hundred eighty (180) days from the date of the receipt of the request for a hearing, ~~or the administrative law judge shall enter an order overturning the investigative agency's investigative determination of true.~~

(B) However, delays in completing the administrative hearing that are attributable to either party shall not count against the limit of one hundred eighty (180) days if the administrative law judge determines that good cause for the delay is shown by the party requesting the

delay and the request for delay is made in writing and delivered to the Office of Appeals and Hearings of the Department of Human Services and all other parties.

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

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

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

~~(2) In a case described under subdivision (b)(1) of this section, the administrative hearing shall be stayed pending final disposition of the criminal or delinquency proceedings~~ The administrative law judge may stay the case upon a showing by any party that there is an ongoing criminal or delinquency investigation regarding the occurrence that is the subject of the child maltreatment report.

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

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

(i) A petition and showing by any party that there

is good cause to conduct the administrative hearing before the conclusion of the criminal or delinquency proceeding;

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

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

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

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

(ii) The case shall be dismissed and the petitioner's name placed on the Child Maltreatment Central Registry if the petitioner fails to provide a file-marked copy of the final disposition of the criminal or delinquency proceeding within thirty (30) days of the entry of the final disposition.

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

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

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

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

SECTION 23. Arkansas Code § 12-18-805(b), concerning video

teleconferencing and teleconferencing options, is amended to read as follows:

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

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

12-18-807. Administrative judgments and adjudications.

(a) ~~A certified copy of a judgment or an adjudication from a court of competent jurisdiction dealing with the same subject matter as an issue concerned in an administrative hearing under this chapter shall be filed with the Office of Appeals and Hearings of the Department of Human Services~~ If a court of competent jurisdiction adjudicates a question that is an issue to be determined by the Office of Appeals and Hearings of the Department of Human Services, the prevailing party to the judicial adjudication who is also a party to the administrative adjudication shall file a certified copy of the judicial adjudication with the office.

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

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

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

SECTION 25. Arkansas Code § 12-18-811(d)(1), concerning expedited

administrative hearings under the Child Maltreatment Act, is amended to read as follows:

(d)(1) The department may charge:

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

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

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

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

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

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

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

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

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

(A) The offender's employer;

(B) A school superintendent, principal, or a person in an

equivalent position where the offender is employed;

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

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

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

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

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

(i) The investigative determination is true; and

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

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

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

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

12-18-814. Automatic hearings for juveniles.

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

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

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

(b) The office shall schedule an administrative hearing for each

juvenile identified under subsection (a) of this section.

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

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

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

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

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

(2) A fee may not be charged to:

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

(B) A person who is indigent.

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

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

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

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

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

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

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

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

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

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

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

(1) *The prosecuting attorney;*

SECTION 34. Arkansas Code § 12-18-910(f)(3)(B)(ii), concerning the availability of true reports of child maltreatment from the central registry, is amended to read as follows:

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

/s/Harris

APPROVED: 04/08/2013