

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 662

By: Senator A. Clark

For An Act To Be Entitled

AN ACT TO CREATE THE CHILD WELFARE OMBUDSMAN DIVISION
WITHIN THE ARKANSAS CHILD ABUSE/RAPE/DOMESTIC
VIOLENCE COMMISSION; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE CHILD WELFARE OMBUDSMAN
DIVISION WITHIN THE ARKANSAS CHILD
ABUSE/RAPE/DOMESTIC VIOLENCE COMMISSION.

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

SECTION 1. DO NOT CODIFY. Legislative intent.

It is the intent of the General Assembly to create a Child Welfare Ombudsman Division within the Arkansas Child Abuse/Rape/Domestic Violence Commission to provide for independent oversight of the child welfare system in Arkansas.

SECTION 2. Arkansas Code § 9-9-217(a)(1), concerning the confidentiality of hearings and records under the Revised Uniform Adoption Act, is amended to read as follows:

(1)(A) All hearings held in proceedings under this subchapter shall be held in closed court without admittance of any person other than essential officers of the court, the parties, their witnesses, counsel, persons who have not previously consented to the adoption but are required to consent, and representatives of the agencies present to perform their official duties.

(B)(i)(a) A Child Welfare Ombudsman may attend an adoption



hearing related to a juvenile case under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.

(b) However, a court may exclude the Child Welfare Ombudsman from an adoption hearing if:

(1) It is in the best interest of the child; or

(2) The reason for the exclusion is based on the authority of the court under the Arkansas Rules of Civil Procedure or the Arkansas Rules of Evidence.

(ii) Unless otherwise allowed by law, the Child Welfare Ombudsman shall not disclose information that he or she obtains through his or her attendance at an adoption hearing held under this subchapter.

SECTION 3. Arkansas Code § 9-27-325(i)(1), concerning hearings held under the Arkansas Juvenile Code of 1989, is amended to read as follows:

(i)(1)(A) All hearings involving allegations and reports of child maltreatment and all hearings involving cases of children in foster care shall be closed.

(B)(i)(a) A Child Welfare Ombudsman may attend a hearing held under this subchapter, including a closed hearing.

(b) However, a court may exclude the Child Welfare Ombudsman from a hearing if:

(1) It is in the best interest of the child; or

(2) The reason for the exclusion is based on the authority of the court under the Arkansas Rules of Civil Procedure or the Arkansas Rules of Evidence.

(ii) Unless otherwise allowed by law, the Child Welfare Ombudsman shall not disclose information that he or she obtains through his or her attendance at a hearing held under this subchapter.

SECTION 4. Arkansas Code § 9-28-407(h)(1), concerning licenses required and issued under the Child Welfare Agency Licensing Act, is amended to add an additional subdivision to read as follows:

(Y) To a Child Welfare Ombudsman.

SECTION 5. Arkansas Code § 12-18-402(b), concerning mandated reporters under the Child Maltreatment Act, is amended to add an additional subdivision to read as follows:

(41) A Child Welfare Ombudsman.

SECTION 6. Arkansas Code § 12-18-620(e), concerning the release of information on a pending investigation under the Child Maltreatment Act, is amended to add an additional subdivision to read as follows:

(13) A Child Welfare Ombudsman.

SECTION 7. Arkansas Code § 12-18-710(e), concerning the release of information on a true investigative determination pending due process under the Child Maltreatment Act, is amended to add an additional subdivision to read as follows:

(14) A Child Welfare Ombudsman.

SECTION 8. Arkansas Code § 12-18-909(g), concerning the availability of true reports of child maltreatment from the Child Maltreatment Central Registry under the Child Maltreatment Act, is amended to add an additional subdivision to read as follows:

(26) A Child Welfare Ombudsman.

SECTION 9. Arkansas Code § 12-18-910(f), concerning the availability of screened-out and unsubstantiated reports under the Child Maltreatment Act, is amended to add an additional subdivision to read as follows:

(16) A Child Welfare Ombudsman.

SECTION 10. Arkansas Code Title 20, Chapter 82, Subchapter 2, is amended to add an additional section to read as follows:

20-82-211. Child Welfare Ombudsman Division – Creation – Powers and duties.

(a)(1) There is created within the Arkansas Child Abuse/Rape/Domestic Violence Commission the Child Welfare Ombudsman Division.

(2) The Executive Director of the Arkansas Child Abuse/Rape/Domestic Violence Commission shall:

(A) Hire a Child Welfare Ombudsman; and

(B) Supervise the Child Welfare Ombudsman.

(3) The Child Welfare Ombudsman shall not be supervised by the members of the Arkansas Child Abuse/Rape/Domestic Violence Commission.

(4) The minimum qualifications for the Child Welfare Ombudsman shall include:

(A) A master's degree in:

(i) Social work;

(ii) Psychology; or

(iii) A related field; or

(B) Comparable experience in one (1) or more programs that serve juveniles and families who are involved in dependency-neglect proceedings.

(5) The Child Welfare Ombudsman shall have the following powers and duties:

(A) The duty to work independently of the:

(i) Department of Human Services;

(ii) Administrative Office of the Courts;

(iii) Commission for Parent Counsel;

(iv) Attorney Ad Litem Program;

(v) Arkansas Public Defender Commission; and

(vi) Arkansas Court Appointed Special Advocates

program;

(B) The duty to communicate with a:

(i) Juvenile after the approval of, and subject to the conditions set by, the:

(a) Dependency-neglect attorney ad litem appointed to the juvenile; or

(b) Attorney for the juvenile if the juvenile has an attorney other than a dependency-neglect attorney ad litem; and

(ii) Parent of a juvenile after the approval of, and subject to the conditions set by, the attorney for the parent if the parent has an attorney;

(C) The authority to access a record as allowed by law;

(D) The duty to review and recommend necessary changes to procedures under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., the Child Maltreatment Act, § 12-18-101 et seq., and other laws relevant to the

operation of the child welfare system that are applicable to the:

- (i) Department of Human Services;
- (ii) Department of Arkansas State Police;
- (iii) Administrative Office of the Courts;
- (iv) Attorney Ad Litem Program;
- (v) Commission for Parent Counsel;
- (vi) Arkansas Public Defender Commission; and
- (vii) Arkansas Court Appointed Special Advocates

Program;

(E) The duty to review an issue or concern related to a court case or investigation of a juvenile if it appears that the juvenile, parent of the juvenile, foster parent of the juvenile, relative of the juvenile, or fictive kin of the juvenile may need assistance from the child welfare ombudsman;

(F) The duty to provide training and technical assistance if a request is received from:

- (i) A member of the child welfare system;
- (ii) The General Assembly; or
- (iii) The office of the Governor;

(G) The duty to make the public aware of the Child Welfare Ombudsman Division and the contact information for the Child Welfare Ombudsman Division; and

(H)(i) The duty to prepare an annual report concerning the work of the Child Welfare Ombudsman Division, the operation of the child welfare system, and any recommendations related to the operation of the child welfare system.

(ii) The Child Welfare Ombudsman Division shall submit the annual report to the:

- (a) Governor;
- (b) Director of the Department of Human

Services;

- (c) Director of the Department of Arkansas

State Police;

- (d) Director of the Division of Children and

Family Services of the Department of Human Services;

- (e) Director of the Administrative Office of

the Courts;

(f) Commission for Parent Counsel;

(g) House Committee on Aging, Children and Youth, Legislative and Military Affairs; and

(h) Senate Interim Committee on Children and Youth.

(iii) The annual report shall not contain information that would identify a juvenile or the family of a juvenile.

(b) As used in this section, "juvenile" means a juvenile as defined in § 9-27-303(32) who is:

(1) A respondent in a dependency-neglect proceeding held under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.; or

(2) The subject of a child maltreatment investigation under the Child Maltreatment Act, § 12-18-101 et seq.

(c) A record maintained by the Child Welfare Ombudsman Division that pertains to a court case or investigation of a juvenile who is the subject of work performed by the Child Welfare Ombudsman Division is confidential and shall not be disclosed except as permitted under § 9-28-407.

SECTION 11. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that some juveniles in Arkansas may be unaware of their rights under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., the Child Maltreatment Act, § 12-18-101 et seq., and other applicable law; that some individuals and entities that are responsible for the welfare of a juvenile may be unaware of the rights of the juvenile under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., the Child Maltreatment Act, § 12-18-101 et seq., and other applicable law; that the creation of the Child Welfare Ombudsman Division within the Arkansas Child Abuse/Rape/Domestic Violence Commission will help increase awareness of a juvenile's legal rights; that independent oversight of the child welfare system in Arkansas is more than likely to result in recommendations that will further improve the procedures and operations of the child welfare system; and that this act is necessary for the preservation of the public peace, health, and safety. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.

APPROVED: 4/12/19