

Stricken language would be deleted from and underlined language would be added to present law.
Act 727 of the Regular Session

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: H3/16/23

A Bill

HOUSE BILL 1560

By: Representative Vaught

By: Senator K. Hammer

For An Act To Be Entitled

AN ACT TO AMEND THE CHILD MALTREATMENT ACT; TO CLARIFY THE LAW REGARDING REPORTS THAT ARE RECEIVED BY THE CHILD ABUSE HOTLINE CONCERNING ALLEGED VICTIMS WHO ARE EIGHTEEN YEARS OF AGE OR OLDER; TO PROHIBIT ANONYMOUS REPORTING TO THE CHILD ABUSE HOTLINE; TO AMEND PENALTIES AND THE STATUTE OF LIMITATIONS FOR FAILURE TO REPORT CHILD MALTREATMENT; TO AMEND THE LAW REGARDING WHO IS A MANDATED REPORTER; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THE LAW REGARDING REPORTS OF CHILD MALTREATMENT WITH ALLEGED VICTIMS WHO ARE EIGHTEEN YEARS OF AGE OR OLDER; TO PROHIBIT ANONYMOUS REPORTING OF CHILD MALTREATMENT; AND TO AMEND PENALTIES FOR FAILURE TO REPORT CHILD MALTREATMENT.

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

SECTION 1. Arkansas Code § 5-1-109(a), concerning the periods of limitation for the prosecution of certain offenses, is amended to add an additional subdivision to read as follows:

(4) A prosecution for failure to notify by a mandated reporter in the first degree, § 12-18-201, and failure to notify by a mandated reporter in the second degree, § 12-18-202, if the child victim in



question was subject to child maltreatment, may be commenced by the later of the following:

(A) Ten (10) years after the child victim reaches eighteen (18) years of age; or

(B) The period of limitation for an offense underlying the child maltreatment.

SECTION 2. Arkansas Code § 5-1-109(b)(3)(B), concerning the periods of limitation for the prosecution of certain offenses, is amended to read as follows:

(B) ~~However,~~

~~(i) For failure to notify by a mandated reporter in the first degree, § 12-18-201, and failure to notify by a mandated reporter in the second degree, § 12-18-202, the period of limitation is ten (10) years after the child victim reaches eighteen (18) years of age if the child in question was subject to child maltreatment; and~~

~~(ii) For for a nine-point or greater violation of an Arkansas State Game and Fish Commission regulation or rule, the period of limitation is three (3) years; and~~

SECTION 3. Arkansas Code § 12-18-201, concerning failure to notify by a mandated reporter in the first degree, is amended to add an additional subsection to read as follows:

(c) This section does not apply to a person who is a:

(1) Mandated reporter under § 12-18-402(b)(42); and

(2) Victim of any of the following committed by the same offender whom the person observed subjecting a child to abuse, sexual abuse, or sexual exploitation:

(A) Domestic abuse as defined in § 9-4-102;

(B) An offense involving physical injury, the threat or risk of physical injury, or apprehension of imminent physical injury; or

(C) A sex offense as defined in § 12-12-903.

SECTION 4. Arkansas Code § 12-18-202, concerning failure to notify by a mandated reporter in the second degree, is amended to add an additional subsection to read as follows:

(c) This section does not apply to a person who is a:

(1) Mandated reporter under § 12-18-402(b)(42); and

(2) Victim of any of the following committed by the same offender whom the person observed subjecting a child to abuse, sexual abuse, or sexual exploitation:

(A) Domestic abuse as defined in § 9-4-102;

(B) An offense involving physical injury, the threat or risk of physical injury, or apprehension of imminent physical injury; or

(C) A sex offense as defined in § 12-12-903.

SECTION 5. Arkansas Code § 12-18-205(b), concerning lawful disclosure of data or information under the Child Maltreatment Act, is amended to read as follows:

(b) Unlawful disclosure of data or information under this chapter is ~~a Class A misdemeanor~~ an unclassified misdemeanor and subject to a fine of up to five thousand dollars (\$5,000) or imprisonment of up to one (1) year, or both.

SECTION 6. Arkansas Code § 12-18-302(b)-(d), concerning reports by mandated reporters, is amended to read as follows:

(b) ~~Faeximile transmission and online~~ Online reporting may be used in nonemergency situations by an identified mandated reporter under this chapter who provides the following contact information:

(1) Name and phone number; and

(2) ~~In the case of online reporting, the~~ The email address of the identified mandated reporter under this chapter.

(c) The Child Abuse Hotline shall provide confirmation of the receipt of a ~~faeximile transmission via a return faeximile transmission or report made~~ via online ~~receipt~~ submission.

~~(d) A mandated reporter under this chapter who wishes to remain anonymous shall make a report through the Child Abuse Hotline toll-free telephone system.~~

SECTION 7. Arkansas Code § 12-18-303(e)(1), concerning minimum requirements for a report to be accepted by the Child Abuse Hotline, is amended to read as follows:

(e)(1)(A)(i) A report of child maltreatment that does not meet the requirements of subsection (a) of this section shall not be accepted by the Child Abuse Hotline.

(ii) The Child Abuse Hotline shall document a report of an allegation of abuse, sexual abuse, or sexual exploitation of an alleged victim who is eighteen (18) years of age or older and refer the report to local law enforcement for criminal investigation if the alleged victim is:

(a) Enrolled in high school; or

(b) In the extended foster care program under § 9-28-114.

(B) The Child Abuse Hotline may accept a report of child maltreatment that does not meet the requirements of subsection (a) of this section if sufficient information is provided to accept the report under §§ 12-18-304 – 12-18-310.

(C) The Child Abuse Hotline shall not accept an anonymous report.

SECTION 8. Arkansas Code § 12-18-402(b), concerning individuals who are mandated reporters under the Child Maltreatment Act, is amended to add an additional subdivision to read as follows:

(42) A person who is eighteen (18) years of age or older and observes abuse, sexual abuse, or sexual exploitation of a child.

SECTION 9. Arkansas Code § 12-18-601(b)(2)(B), concerning procedures established by the Department of Human Services for the investigation of an allegation of child maltreatment, is amended to read as follows:

(B) The procedures established by the Department of Human Services shall require the:

(i) Closure of an investigation if there is no evidence to support the report of child maltreatment other than the report made to the Child Abuse Hotline;

(ii) Closure of an investigation if there is insufficient detail to investigate the report of child maltreatment;

~~(iii)(a) Closure of an investigation that is based on an allegation made by an anonymous reporter if there is no evidence to corroborate the report of child maltreatment after the investigating agency~~

~~has conducted a preliminary investigation to determine whether there is any evidence to corroborate the report of child maltreatment.~~

~~(b) A preliminary investigation shall include:~~

~~(1) An interview with the alleged victim;~~

~~(2) A visit to the home of the alleged victim if appropriate given the type of child maltreatment alleged; and~~

~~(3) Evidence from a collateral witness;~~

~~(iv)~~(iii) Closure of an investigation if:

(a) There has not been an additional report of abuse or neglect that has been committed by the alleged offender who is the subject of the current report;

(b) The investigator reviews the prior history of child maltreatment related to the family of the child and to the alleged offender and determines that the health and safety of the child can be assured without further investigation by the Department of Human Services or the Division of Arkansas State Police; and

(c) The investigator determines that abuse or neglect of the child did not occur; and

~~(v)~~(iv) Approval of the:

(a) Director of the Division of Children and Family Services of the Department of Human Services or his or her designee for the administrative closure of an investigation that is conducted by the Department of Human Services; or

(b) Director of the Division of Arkansas State Police or his or her designee for the administrative closure of an investigation conducted by the Division of Arkansas State Police.

/s/Vaught

APPROVED: 4/12/23