

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

SENATE BILL 1038

By: Senator Irvin

For An Act To Be Entitled

AN ACT CONCERNING REPORTS FROM THE DEPARTMENT OF HUMAN SERVICES OR A DIVISION OF THE DEPARTMENT OF HUMAN SERVICES RELATED TO CHILD MALTREATMENT; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING REPORTS FROM THE DEPARTMENT OF HUMAN SERVICES OR A DIVISION OF THE DEPARTMENT OF HUMAN SERVICES RELATED TO CHILD MALTREATMENT.

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

SECTION 1. Arkansas Code § 9-28-120 is amended to read as follows:

9-28-120. Public disclosure of information on deaths and maltreatment.

(a)(1) The Department of Human Services shall place a notice on the department's web page when a fatality or near fatality of a child is reported to the Child Abuse Hotline under the Child Maltreatment Act, § 12-18-101 et seq., within seventy-two (72) hours of receipt of a report from the Child Abuse Hotline.

(2) The notice of a reported fatality or near fatality of a child shall state the:

- (A) Age, race, and gender of the child;
- (B) Date of the child's death or incident;
- (C) Allegations or preliminary cause of death or incident;
- (D) County and type of placement of the child at time of

incident;



(E) Generic relationship of the alleged offender to the child;

(F) Agency conducting the investigation;

(G) Legal action by the department; and

(H) Services offered or provided by the department ~~now~~ presently and in the past.

(3) The notice of a fatality of a child shall also include the name of the child.

(4) The department shall not put on the web page any:

(A) Information on siblings of the child; or

(B) Attorney-client communications.

(5) The department may elect not to place notice on the department's web page if:

(A) A law enforcement agency is actively investigating a case that is subject to the notice provisions of this section; and

(B) The law enforcement agency reasonably believes that the investigation will result in the subsequent arrest of a person.

(b)(1) Upon request, the department shall release the following information to the general public when a Child Abuse Hotline report is received on a child in the custody of the department and the department may identify if the child maltreatment act or omission occurred before of after the child was placed in the custody of the department:

(A) Age, race, and gender of the child;

(B) Allegations of maltreatment;

(C) County and placement of the child at time of incident;

(D) Generic relationship of the alleged offender to the child; and

(E) Action taken by the department.

(2) The department shall not release:

(A) Information on siblings of the child; or

(B) Attorney-client communications.

(3) The department shall not release any information if:

(A) A law enforcement agency is actively investigating a case that is subject to the notice provisions of this section; and

(B) The law enforcement agency reasonably believes that the investigation will result in the subsequent arrest of a person.

(c)(1) Upon request, the department shall release the following information when a child dies if that child was in an out-of-home placement as defined under § 9-27-303(39):

- (A) Age, race, and gender of the child;
- (B) Date of the child's death;
- (C) Preliminary cause of death;
- (D) County and type of placement of the child at time of incident; and
- (E) Action by the department.

(2) The department shall not release:

- (A) Information on siblings of the child; or
- (B) Attorney-client communications.

(3) The department shall not release any information if:

- (A) A law enforcement agency is actively investigating a case that is subject to the notice provisions of this section; and
- (B) The law enforcement agency reasonably believes that the investigation will result in the subsequent arrest of a person.

SECTION 2. Arkansas Code § 9-32-203(e)-(g), concerning quarterly performance reports, is amended to read as follows:

(e)(1) The Division of Children and Family Services shall report on the fatality or near fatality of a child that is reported to the Child Abuse Hotline under the Child Maltreatment Act, § 12-18-101 et seq.

(2) The data on a reported fatality or near fatality shall include the:

- (A) Age, race, and gender of the child;
- (B) Date of the child's death or incident;
- (C) Allegations or preliminary cause of death or incident;
- (D) County and type of placement of the child at time of incident;
- (E) Generic relationship of the alleged offender to child;
- (F) Agency conducting the investigation;
- (G) Legal action by the department; and
- (H) Services offered or provided by the department ~~now~~ presently and in the past.

(3) The data of a fatality shall also include the name of the

child.

(f)(1) The ~~Department of Human Services~~ department shall report Child Abuse Hotline reports received on a child in the custody of the department and the department may identify if the child maltreatment act or omission occurred before of after the child was placed in the custody of the department.

(2) The data on reports of maltreatment on foster children shall include the:

- (A) Age, race, and gender of the child;
- (B) Allegations of maltreatment;
- (C) County and type of placement of the child at time of incident;
- (D) Generic relationship of the alleged offender to the child; and
- (E) Action taken by the department.

(g)(1) The department shall report when a child dies if that child was in an out-of-home placement as defined under § 9-27-303(39).

(2) The data on the deaths of children in an out-of-home placement shall include the:

- (A) Age, race, and gender of the child;
- (B) Date of the child's death;
- (C) Preliminary cause of death;
- (D) County and type of placement of the child at time of incident; and
- (F) Action by the department.

SECTION 3. Arkansas Code § 9-32-204(d)-(f), concerning annual performance reports, is amended to read as follows:

(d)(1) The Division of Children and Family Services shall report on the fatality or near fatality of a child that is reported to the Child Abuse Hotline under the Child Maltreatment Act, § 12-18-101 et seq.

(2) The data on a reported fatality or near fatality shall include the:

- (A) Age, race, and gender of the child;
- (B) Date of the child's death or incident;
- (C) Allegations or preliminary cause of death or incident;

(D) County and type of placement of the child at time of incident;

(E) Generic relationship of the alleged offender to the child;

(F) Agency conducting investigation;

(G) Legal action by the department; and

(H) Services offered or provided by the department ~~now~~ presently and in the past.

(3) The data of a fatality shall also include the name of the child.

(e)(1) The ~~Department of Human Services~~ department shall report hotline reports received on a child in the custody of the department and the department may identify if the child maltreatment act or omission occurred before of after the child was placed in the custody of the department .

(2) The data on reports of maltreatment on foster children shall include the:

(A) Age, race, and gender of the child;

(B) Allegations of maltreatment;

(C) County and type of placement of the child at time of incident;

(D) Generic relationship of the alleged offender to the child; and

(E) Action taken by the department.

(f)(1) The department shall report when a child dies if that child was in an out-of-home placement as defined under § 9-27-303(39).

(2) The data on the deaths of children in an out-of-home placement shall include the:

(A) Age, race, and gender of the child;

(B) Date of the child's death;

(C) Preliminary cause of death;

(D) County and type of placement of the child at time of incident; and

(F) Action by the department.

SECTION 4. Arkansas Code § 12-18-1101 is amended to read as follows:
12-18-1101. Procedure if the investigation is pending on a fatality.

Upon request, the Department of Human Services shall release the following information to the general public when an investigation is pending on a report of a fatality of a child to the Child Abuse Hotline:

- (1) Age, race, and gender of the child;
- (2) Date of the child's death;
- (3) Allegations or preliminary cause of death;
- (4) County and type of placement of the child at the time of incident leading to the child's death;
- (5) Generic relationship of the alleged offender to the child;
- (6) Agency conducting the investigation;
- (7) Legal action taken by the department;
- (8) Services offered or provided by the department ~~now~~ presently and in the past; and
- (9) Name of the child.

SECTION 5. Arkansas Code § 12-18-1102(3)-(5) is amended to read as follows:

12-18-1102. Procedure if the investigation results in a true report related to a fatality.

Upon request, the Department of Human Services shall release the following information to the general public when the investigative determination is true on a report of a fatality of a child:

- (1)(A) A summary of previous child maltreatment investigations.
 - (B) ~~If the previous investigation was determined true, the~~ The disclosure shall not include the name of the ~~adult~~ offender ~~until due process is satisfied or the name of any offender who was under eighteen (18) years of age at the time of the act or omission of child maltreatment.~~
 - (C) ~~If the previous investigation was determined unsubstantiated, the disclosure shall not include the name of the person alleged to be the offender;~~
- (2) A summary of the current child maltreatment investigation, including:
 - (A) The nature and extent of the child's present and past injuries;
 - (B) Medical information pertaining to the death; and
 - (C) The name of the offender if due process has been

satisfied or the offender has been arrested;

(3) All relevant risk and safety assessments completed on the child;

(4) Information about criminal charges, if known; and

(5) Any action taken by the Department of Human Services or the Crimes Against Children Division of the Department of Arkansas State Police, including personnel action and licensing action.

SECTION 6. Arkansas Code § 12-18-1103(3)-(5) is amended to read as follows:

12-18-1103. Procedure if the investigation results in an unsubstantiated report related to a fatality.

Upon request, the Department of Human Services shall release the following information to the general public when the investigative determination is unsubstantiated on a report of a fatality of a child:

(1)(A) A summary of previous child maltreatment investigations.

~~(B) If the previous investigation was determined true, the~~
The disclosure shall not include the name of the ~~adult~~ offender ~~until due~~
~~process is satisfied or the name of any offender who was under eighteen (18)~~
~~years of age at the time of the act or omission of child maltreatment.~~

~~(C) If the previous investigation was determined~~
~~unfounded, the disclosure shall not include the name of the person alleged to~~
~~be the offender;~~

(2) A summary of the current child maltreatment investigation, including medical information pertaining to the death, however, the name of the alleged offender shall not be disclosed;

(3) All relevant risk and safety assessments completed on the child;

(4) Information about criminal charges, if known; and

(5) Any action taken by the Department of Human Services or the Crimes Against Children Division of the Department of Arkansas State Police, including personnel action and licensing action.

SECTION 7. Arkansas Code § 12-18-1105(4)-(8), concerning a pending investigation related to a near fatality, is amended to read as follows:

(4) County and type of placement of the child at time of the

near fatality;

(5) Generic relationship of the alleged offender to the child;

(6) Agency conducting the investigation;

(7) Legal action taken by the department; and

(8) Services offered or provided by the department ~~now~~ presently

and in the past.