

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1654

By: Representative C. Fite

By: Senator Rice

For An Act To Be Entitled

AN ACT TO FOCUS THE LAW REGARDING THE CONFIDENTIALITY OF RECORDS OF CHILD ABUSE OR NEGLECT ON THOSE KEPT BY CHILDREN'S ADVOCACY CENTERS; TO REMOVE CERTAIN IMAGES FROM THE LIST OF ITEMS WITH A REASONABLE EXPECTATION OF PRIVACY; AND FOR OTHER PURPOSES.

Subtitle

TO FOCUS THE LAW REGARDING THE CONFIDENTIALITY OF RECORDS OF CHILD ABUSE OR NEGLECT ON THOSE KEPT BY CHILDREN'S ADVOCACY CENTERS.

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

SECTION 1. Arkansas Code § 20-78-106(a), concerning the availability of records from children's advocacy centers during an investigation of suspected cases of child abuse or neglect, is amended to read as follows:

(a) Reports, correspondence, memoranda, case histories, medical records, or other materials compiled or gathered ~~during an investigation of a suspected case of child abuse or neglect~~ by a children's advocacy center, ~~hospital, or clinic~~ shall be confidential and shall not be released or otherwise made available except:

(1) To the attorney representing the abused child in a custody or juvenile case with an order of appointment or an order recognizing entry of appearance;

(2) For any audit or similar activity conducted with the



administration of any plan or program by any governmental agency ~~which~~ that is authorized by law to conduct the audit or activity;

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

(4) To any licensing or registering authority to the extent necessary to carry out its official responsibilities, but the information shall be maintained as confidential;

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

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

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

(6) To the Department of Human Services;

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

~~(8) Images of a child's breast, genitals, or anus shall not be released except as provided under subsection (c) of this section;~~

~~(9)~~(8) All records may be released to an attorney in any criminal, civil, or administrative proceeding or to a party in a criminal, civil, or administrative proceeding if the party is not represented by an attorney as permitted under criminal, civil, or administrative discovery rules upon a finding by the court that:

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

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

~~(10)~~(9) Medical records may be released to a person providing medical or psychiatric care or services to the abused child; and

~~(11)~~(10) For bona fide instructional purposes ~~at~~ by Arkansas Children's Hospital, ~~and~~ the University of Arkansas for Medical Sciences, ~~or both,~~ or a child advocacy center in the care, detection, treatment, and management of suspected child abuse and neglect.

SECTION 2. Arkansas Code § 20-78-106(c)(2)(A) and (B), concerning the

availability of records from children's \ during an investigation of suspected cases of child abuse or neglect, are amended to read as follows:

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

(ii) There is a reasonable expectation of privacy in the following items:

- ~~(i)(a)~~ Audio or videotapes of a child witness;
- ~~(ii)(b)~~ Photographs of a child witness;
- ~~(iii)(c)~~ Name of a child victim; and
- ~~(iv)(d)~~ Medical records of a child victim; ~~and~~
- ~~(v) Images of a child's breast, genitals, or~~

~~anus.~~

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

(ii) There is a reasonable expectation of privacy in the following items:

- ~~(i)(a)~~ Audio or videotapes of a child witness;
- ~~(ii)(b)~~ Photographs of a child witness;
- ~~(iii)(c)~~ Name of a child victim; and
- ~~(iv)(d)~~ Medical records of a child victim; ~~and~~
- ~~(v) Images of a child's breast, genitals, or anus.~~