

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1912

By: Representatives Gates, M. Gray, G. Hodges, Lundstrum, Ballinger
By: Senator A. Clark

For An Act To Be Entitled

AN ACT TO REQUIRE VIDEO AND AUDIO RECORDINGS OF IN-
PERSON INTERACTIONS AND VERBAL COMMUNICATIONS THAT
OCCUR DURING INVESTIGATIONS PERFORMED UNDER THE
ARKANSAS JUVENILE CODE OF 1989 AND THE CHILD
MALTREATMENT ACT; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE VIDEO AND AUDIO RECORDINGS OF
IN-PERSON INTERACTIONS AND VERBAL
COMMUNICATIONS THAT OCCUR DURING
INVESTIGATIONS PERFORMED UNDER THE
ARKANSAS JUVENILE CODE OF 1989 AND THE
CHILD MALTREATMENT ACT.

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

SECTION 1. Arkansas Code Title 9, Chapter 27, Subchapter 3, is amended to add an additional section to read as follows:

9-27-369. Recording of investigations.

(a)(1) An employee of the Department of Human Services shall take a video and audio recording of any in-person interaction or verbal communication between the employee and a parent, child, relative, or other relevant person who is contacted during an investigation under this chapter if any details of the in-person interaction or verbal communication will be included in the case file or offered as evidence in a court proceeding.

(2) Before taking a video and audio recording as required under



this subsection, the employee shall advise the parent, child, relative, or other relevant person that:

(A) The parent, child, relative, or other relevant person is not required to speak with the employee;

(B) Any statement made by the parent, child, relative, or other relevant person may be used against him or her in a civil or criminal proceeding; and

(C) The parent, child, relative, or other relevant person has the right to seek the advice of counsel before making any statement.

(3)(A) The department shall catalogue and preserve video and audio recordings taken under this section in a manner that allows the video and audio recordings to be reproduced in a format that can be readily reviewed upon the request of a court or a party to a court proceeding under this chapter.

(B) A request for a video and audio recording taken under this section shall be submitted in writing to the department.

(C) The department shall provide the requesting court or party with the video and audio recording within fourteen (14) days of the date on which the department receives the request.

(b) A written summary or other testimony concerning the content of a video and audio recording required under this section shall not be accepted into evidence at a hearing unless the video and audio recording is provided to the requester at least ten (10) days before the scheduled hearing or, in the case of a probable cause or emergency hearing, at least twenty-four (24) hours before the probable cause or emergency hearing.

(c)(1) The department shall develop rules to implement this section.

(2) The rules developed by the department under subdivision (c)(1) of this section shall address:

(A) The operation and maintenance of video and audio recording equipment;

(B) The method for replacing defective or malfunctioning video and audio recording equipment;

(C) When an employee is required to use video and audio recording equipment;

(D) The duration of time for which the video and audio recordings shall be retained; and

(E) Procedures for documenting when a video and audio recording is not captured as required under this section.

(d) A video and audio recording or a transcript of a video and audio recording required under this section is subject to the same confidentiality as other records maintained by the department.

(e)(1) A video and audio recording or a transcript of a video and audio recording taken in accordance with this section may be offered as evidence subject to the provisions of the Arkansas Rules of Evidence if the video and audio recording contains a statement obtained by an employee of the department.

(2)(A) A video and audio recording or a transcript of a video and audio recording taken in accordance with this section may be offered to impeach or rebut the accuracy of a written record prepared by an employee of the department.

(B) However, if the video and audio recording or a transcript of the video and audio recording contains a statement of a person who does not testify during the court proceeding, the statement of the person who does not testify during the court proceeding is inadmissible for the truth of the matter asserted.

SECTION 2. Arkansas Code Title 12, Chapter 18, Subchapter 6, is amended to add an additional section to read as follows:

12-18-624. Recording of investigations.

(a)(1) An employee of the Department of Human Services or the Department of Arkansas State Police shall take a video and audio recording of any in-person interaction or verbal communication between the employee and a parent, child, relative, or other relevant person who is contacted during an investigation of a report of child maltreatment if any details of the in-person interaction or verbal communication will be included in the case file or offered as evidence in a court proceeding.

(2) Before taking a video and audio recording as required under this subsection, the employee shall advise the parent, child, relative, or other relevant person that:

(A) The parent, child, relative, or other relevant person is not required to speak with the employee;

(B) Any statement made by the parent, child, relative, or

other relevant person may be used against him or her in a civil or criminal proceeding; and

(C) The parent, child, relative, or other relevant person has the right to seek the advice of counsel before making any statement.

(3)(A) The Department of Human Services and the Department of Arkansas State Police shall catalogue and preserve video and audio recordings taken under this section in a manner that allows the video and audio recordings to be reproduced in a format that can be readily reviewed upon the request of a court or a party to a court proceeding under this chapter.

(B) A request for a video and audio recording required under this section shall be submitted in writing to the Department of Human Services or the Department of Arkansas State Police, as applicable.

(C) The Department of Human Services or the Department of Arkansas State Police shall provide the requesting court or party with the video and audio recording within fourteen (14) days of the date on which the Department of Human Services or the Department of Arkansas State Police receives the request.

(b) A written summary or other testimony concerning the content of a video and audio recording required under this section shall not be accepted into evidence at a hearing unless the video and audio recording is provided to the requesting court or party at least ten (10) days before the scheduled hearing or, in the case of a probable cause or emergency hearing, at least twenty-four (24) hours before the probable cause or emergency hearing.

(c) Rules promulgated by the Department of Human Services and the Department of Arkansas State Police pertaining to this section shall address:

(1) The operation and maintenance of video and audio recording equipment;

(2) The method for replacing defective or malfunctioning video and audio recording equipment;

(3) When an employee is required to use video and audio recording equipment;

(4) The duration of time for which the video and audio recordings shall be retained; and

(5) Procedures for documenting when a video and audio recording is not captured as required under this section.

(d) A video and audio recording or a transcript of a video and audio

recording required under this section is subject to the same confidentiality as other records maintained by the Department of Human Services and the Department of Arkansas State Police.

(e)(1) A video and audio recording or a transcript of a video and audio recording taken in accordance with this section may be offered as evidence subject to the Arkansas Rules of Evidence if the video and audio recording contains a statement obtained by an employee of the Department of Human Services or the Department of Arkansas State Police.

(2)(A) A video and audio recording or a transcript of a video and audio recording taken in accordance with this section may be offered to impeach or rebut the accuracy of a written record prepared by an employee of the Department of Human Services or the Department of Arkansas State Police.

(B) However, if the video and audio recording or a transcript of the video and audio recording contains a statement of a person who does not testify during the court proceeding, the statement of the person who does not testify during the court proceeding is inadmissible for the truth of the matter asserted.