

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

State of Arkansas
91st General Assembly
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As Engrossed: S3/9/17
A Bill

SENATE BILL 556

By: Senator A. Clark

For An Act To Be Entitled

AN ACT TO CREATE THE CHILD MALTREATMENT INVESTIGATIONS OVERSIGHT COMMITTEE; TO REPEAL THE OVERSIGHT SYSTEM CONCERNING THE CHILD ABUSE HOTLINE; TO AMEND THE LAW CONCERNING OPEN PUBLIC MEETINGS UNDER THE FREEDOM OF INFORMATION ACT OF 1967; TO AMEND CONFIDENTIALITY PROVISIONS CONTAINED IN THE CHILD MALTREATMENT ACT; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE CHILD MALTREATMENT INVESTIGATIONS OVERSIGHT COMMITTEE; TO AMEND THE FREEDOM OF INFORMATION ACT; AND TO AMEND PROVISIONS CONTAINED IN THE CHILD MALTREATMENT ACT.

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

SECTION 1. Arkansas Code Title 10, Chapter 3, is amended to add an additional subchapter to read as follows:

Subchapter 32 –

Child Maltreatment Investigations Oversight Committee

10-3-3201. Legislative intent.

The General Assembly intends to establish the Child Maltreatment Investigations Oversight Committee as a mechanism to promote transparency and efficiency concerning procedures of child maltreatment investigations in this state.



10-3-3202. Child Maltreatment Investigations Oversight Committee –
Creation – Membership – Meetings.

(a)(1) There is created a legislative committee to be known as the
"Child Maltreatment Investigations Oversight Committee" that shall review and
evaluate:

(A) The conduct of child maltreatment investigations
completed by the Division of Children and Family Services of the Department
of Human Services or the Crimes Against Children Division of the Department
of Arkansas State Police; and

(B) Service delivery to children and families involved in
an investigation of child maltreatment.

(2) All cases that are reviewed and evaluated under this section
shall:

(A) Be completed investigations of child maltreatment; and

(B) Not be associated with a pending dependency-neglect
case.

(b)(1) The Child Maltreatment Investigations Oversight Committee
shall be composed of eighteen (18) members, and unless otherwise provided
under this section, the members shall be selected by the Chair of the House
Committee on Aging, Children and Youth, Legislative and Military Affairs and
the Chair of the Senate Interim Committee on Children and Youth in
consultation with members of the House Committee on Aging, Children and
Youth, Legislative and Military Affairs and the Senate Interim Committee on
Children and Youth.

(2) Membership of the Child Maltreatment Investigations
Oversight Committee shall include:

(A) The Director of the Division of Children and Family
Services of the Department of Human Services, or his or her designee;

(B) The Commander of the Crimes Against Children Division
of the Department of Arkansas State Police, or his or her designee;

(C) One (1) representative from the Governor's office, as
selected by the Governor;

(D) One (1) attorney who is employed as parent counsel;

(E) One (1) dependency-neglect attorney ad litem;

(F) One (1) attorney who:

(i) Has experience representing parents in child welfare cases ; and

(ii) Is not contracted by the state;

(G) One (1) judge or justice, who may be a retired judge or justice;

(H) One (1) current or former representative from the court-appointed special advocate program;

(I) One (1) representative from a child advocacy center;

(J)(i) One (1) parent who was previously designated as a subject of the report.

(ii) As used in subdivision (b)(2)(I)(i) of this section, "subject of the report" means:

(a) The offender;

(b) The custodial and noncustodial parents, guardians, and legal custodians of the child who is subject to suspected maltreatment; and

(c) The child who is the subject of suspected maltreatment;

(K) One (1) adult who was previously in the custody of the state as a foster child due to a true finding of child maltreatment or neglect;

(L) One (1) current foster parent;

(M) The Chair of the House Committee on Aging, Children and Youth, Legislative and Military Affairs or his or her designee and the Chair of the Senate Interim Committee on Children and Youth or his or her designee;

(N)(i) Two (2) designees of the Chair of the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Chair of the Senate Interim Committee on Children and Youth.

(ii) The designees under subdivision (b)(2)(M)(i) of this section shall be members of the General Assembly who are members of the House Committee on Aging, Children and Youth, Legislative and Military Affairs or the Senate Interim Committee on Children and Youth; and

(O)(i) One (1) current or former member of the General Assembly who is a current or former member of the House Committee on Aging, Children and Youth, Legislative and Military Affairs or the Senate Interim

Committee on Children and Youth.

(ii) The current or former member of the General Assembly under subdivision (b)(2)(N)(i) of this section shall be appointed by the Governor.

(c)(1)(A) Members of the Child Maltreatment Investigations Oversight Committee shall serve three-year staggered terms.

(B)(i) A current or former legislative member of the Child Maltreatment Investigations Oversight Committee shall serve for a term that expires following the general election that occurs after he or she is chosen to serve on the oversight committee, and until his or her replacement is selected or appointed under this section.

(ii) A current or former legislative member of the oversight committee under subdivision (c)(1)(B)(i) of this section may be appointed or selected to serve consecutive terms.

(d)(1) The Chair of the Child Maltreatment Investigations Oversight Committee shall guide the Child Maltreatment Investigations Oversight Committee in its discussion, evaluation, and review of the:

(A) Conduct of child maltreatment investigations completed by the Division of Children and Family Services of the Department of Human Services or the Crimes Against Children Division of the Department of Arkansas State Police; and

(B) Service delivery to children and families involved in an investigation of child maltreatment.

(2) Guidance from the Chair of the Child Maltreatment Investigations Oversight Committee under subdivision (d)(1) of this section shall include without limitation:

(A) Selection of closed child maltreatment cases to be considered by the oversight committee; and

(B) Criteria by which to evaluate the conduct of child maltreatment investigations and service delivery under subdivisions (d)(1)(A) and (B) of this section.

(e) Staff for the meetings of the Child Maltreatment Investigations Oversight Committee shall be provided by the Bureau of Legislative Research.

10-3-3203. Confidentiality – Unlawful disclosure.

(a) Meetings of the Child Maltreatment Investigations Oversight

Committee are closed and are exempt from public observance under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(b) Correspondence between Child Maltreatment Investigations Oversight Committee members and information considered by the Child Maltreatment Investigations Oversight Committee in furtherance of the goals of the Child Maltreatment Investigations Oversight Committee are exempt from public inspection and copying under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(c)(1) Except as provided under subdivision (c)(2) of this section, members of the Child Maltreatment Investigations Oversight Committee shall not disclose to any other person any confidential information obtained during or in relation to a meeting of the Child Maltreatment Investigations Oversight Committee.

(2) A legislative member of the Child Maltreatment Investigations Oversight Committee, acting in his or her official capacity, may disclose confidential information obtained under this section to:

(A)(i) Members of the General Assembly.

(ii) However, disclosure shall not be made to any public committee or legislative body; and

(B) The Governor and the Governor's authorized staff members.

(d)(1) A person commits the offense of unlawful disclosure of data or information under this subchapter if the person knowingly discloses data or information to a person to whom disclosure is not permitted by this subchapter.

(2) Unlawful disclosure of data or information under this subchapter is a Class A misdemeanor.

10-3-3204. Report.

(a) The Child Maltreatment Investigations Oversight Committee shall submit its findings and recommendations contained in a report at least annually to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth.

(b) The report shall not contain information that identifies:

(1) A subject of a report of child maltreatment; or

(2) The person who made the report of child maltreatment.

SECTION 2. TEMPORARY LANGUAGE. DO NOT CODIFY.

(a) The membership of the Child Maltreatment Investigations Oversight Committee shall be determined within sixty (60) days of the effective date of this act.

(b) The Chair of the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Chair of the Senate Interim Committee on Children and Youth shall call the first meeting.

(c) At the first meeting, the initial members of the Child Maltreatment Investigations Oversight Committee shall:

(1) Determine by lot their respective staggered terms; and

(2) Elect from its legislative membership the Chair of the Child Maltreatment Investigations Oversight Committee.

SECTION 3. Arkansas Code § 12-8-506 is repealed.

~~12-8-506. Oversight.~~

~~(a)(1)(A) When the Department of Arkansas State Police assumes responsibility for the Child Abuse Hotline and child abuse investigations under this subchapter, either through transfer or by contract, an oversight system shall be created to review:~~

~~(i) The administration of the Child Abuse Hotline;~~

~~(ii) The conduct of child abuse investigations;~~

~~(iii) Interagency cooperation in regard to the allocation of responsibility for various types of child abuse investigations; and~~

~~(iv) Service delivery to children and families.~~

~~(B) The oversight system shall utilize the same criteria by which the Division of Children and Family Services of the Department of Human Services has been measured as stipulated in the settlement of Angela R. v. State of Arkansas.~~

~~(2) The House Subcommittee on Children and Youth of the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth shall conduct the review and evaluation with the assistance of six (6) ex-officio members with professional experience in the performance of activities involving child abuse and neglect, to be appointed jointly by the chairs of the House~~

~~Subcommittee on Children and Youth of the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth from a list of nominees submitted by the professional associations of the respective members, as follows:~~

~~(A) One (1) ex officio member shall be a pediatrician;~~

~~(B) One (1) ex officio member shall be a social worker;~~

~~(C) One (1) ex officio member shall be a guardian ad litem;~~

~~(D) One (1) ex officio member shall be a foster parent;~~

~~(E) One (1) ex officio member shall be an educator; and~~

~~(F) One (1) ex officio member shall be a law enforcement officer.~~

~~(b)(1) The oversight system established in subsection (a) of this section shall commence within one (1) month of the assumption of the responsibility for the Child Abuse Hotline and child abuse investigations by the Department of Arkansas State Police, either by contract or through transfer.~~

~~(2) The Department of Arkansas State Police shall submit reports regarding the administration of the Child Abuse Hotline and the conduct of child abuse investigations at least quarterly or more often as determined by the House Subcommittee on Children and Youth of the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth.~~

SECTION 4. Arkansas Code § 12-18-104, concerning confidentiality, is amended to add an additional subdivision to read as follows:

(c) This section does not prohibit the disclosure and discussion of confidential data, records, reports, or documents created, collected, or compiled by or on behalf of the Department of Human Services, the Department of Arkansas State Police, or other entity authorized under this chapter to perform investigations or provide services to children, individuals, or families in closed meetings conducted by the Child Maltreatment Investigations Oversight Committee under § 10-3-3201 et seq.

SECTION 5. Arkansas Code § 12-18-620(e)(10), concerning release of information on pending investigations of child maltreatment, is amended to

read as follows:

(10)(A)(i) Acting in their official capacities, individual United States and Arkansas senators and representatives and their authorized staff members but only if they agree not to permit any redisclosure of the information.

(ii) This subdivision does not prohibit an individual United States or Arkansas senator or representative from disclosing information to another United States or Arkansas senator or representative.

(B) However, disclosure shall not be made to any committee or legislative body.

SECTION 6. Arkansas Code § 12-18-710(e)(11), concerning release of information on a true investigative determination pending due process, is amended to add an additional subdivision to read as follows:

(11)(A)(i) Acting in their official capacities, individual United States and Arkansas senators and representatives and their authorized staff members, but only if they agree not to permit any redisclosure of the information.

(ii) This subdivision does not prohibit an individual United States or Arkansas senator or representative from disclosing information to another United States or Arkansas senator or representative.

(B) However, disclosure shall not be made to any committee or legislative body.

SECTION 7. Arkansas Code § 12-18-909(d), concerning availability of true reports of child maltreatment from the central registry, is amended to add an additional subdivision to read as follows:

(5) This section does not prohibit the disclosure and discussion of confidential data, records, reports, or documents created, collected, or compiled by or on behalf of the Department of Human Services, the Department of Arkansas State Police, or other entity authorized under this chapter to perform investigations or provide services to children, individuals, or families in closed meetings conducted by the Child Maltreatment Investigations Oversight Committee under § 10-3-3201 et seq.

SECTION 8. Arkansas Code § 12-18-909(g)(15), concerning availability of true reports of child maltreatment from the central registry, is amended to read as follows:

(15)(A)(i) Acting in their official capacities, individual United States and Arkansas senators and representatives and their authorized staff members, but only if they agree not to permit any redisclosure of the information.

(ii) This subdivision does not prohibit an individual United States or Arkansas senator or representative from disclosing information to another United States or Arkansas senator or representative.

(B) However, disclosure shall not be made to any committee or legislative body of any information that identifies any recipient of services by name or address;

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

(4) This section does not prohibit the disclosure and discussion of confidential data, records, reports, or documents created, collected, or compiled by or on behalf of the Department of Human Services, the Department of Arkansas State Police, or other entity authorized under this chapter to perform investigations or provide services to children, individuals, or families in closed meetings conducted by the Child Maltreatment Investigations Oversight Committee under § 10-3-3201 et seq.;

SECTION 10. Arkansas Code § 12-18-910(f)(6), concerning availability of screened-out and unsubstantiated reports, is amended to read as follows:

(6)(A)(i) Acting in their official capacities, individual United States and Arkansas senators and representatives and their authorized staff members, but only if they agree not to permit any redisclosure of the information.

(ii) This subdivision does not prohibit an individual United States or Arkansas senator or representative from disclosing information to another United States or Arkansas senator or

representative.

(B) However, disclosure shall not be made to any committee or legislative body of any information that identifies any recipient of services by name or address+.

SECTION 11. Arkansas Code § 25-19-106(c), concerning open public meetings, is amended to read as follows:

(c)(1)(A) ~~Executive sessions~~ Except as provided under subdivision (c)(6) of this section, an executive session will be permitted only for the purpose of considering employment, appointment, promotion, demotion, disciplining, or resignation of any public officer or employee.

(B) The specific purpose of the executive session shall be announced in public before going into executive session.

(2)(A) Only the person holding the top administrative position in the public agency, department, or office involved, the immediate supervisor of the employee involved, and the employee may be present at the executive session when so requested by the governing body, board, commission, or other public body holding the executive session.

(B) Any person being interviewed for the top administrative position in the public agency, department, or office involved may be present at the executive session when so requested by the governing board, commission, or other public body holding the executive session.

(3) Executive sessions must never be called for the purpose of defeating the reason or the spirit of this chapter.

(4) No resolution, ordinance, rule, contract, regulation, or motion considered or arrived at in executive session will be legal unless, following the executive session, the public body reconvenes in public session and presents and votes on the resolution, ordinance, rule, contract, regulation, or motion.

(5)(A) Boards and commissions of this state may meet in executive session for purposes of preparing examination materials and answers to examination materials that are administered to applicants for licensure from state agencies.

(B) Boards and commissions are excluded from this chapter for the administering of examinations to applicants for licensure.

(6) Subject to the provisions of subdivision (c)(4) of this

section, a public agency may meet in executive session for the purpose of considering, evaluating, or discussing matters pertaining to public water system security or municipally owned utility system security as described in § 25-19-105(b)(18).

(7) An executive session held by the Child Maltreatment Investigations Oversight Committee under § 10-3-3201 et seq. is exempt from this section.

/s/A. Clark