

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

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1442

By: Representatives Vaught, Cavanaugh, C. Fite, Scott

By: Senator K. Hammer

For An Act To Be Entitled

AN ACT TO AMEND THE CHILD MALTREATMENT ACT; TO AMEND THE LAWS CONCERNING THE CHILD ABUSE HOTLINE; TO TRANSFER THE CHILD ABUSE HOTLINE FROM THE DEPARTMENT OF PUBLIC SAFETY TO THE DEPARTMENT OF HUMAN SERVICES; TO ABOLISH THE CRIMES AGAINST CHILDREN DIVISION OF THE DIVISION OF ARKANSAS STATE POLICE; TO TRANSFER ALL CIVIL CHILD MALTREATMENT INVESTIGATIONS THAT ARE ASSIGNED TO THE DEPARTMENT OF PUBLIC SAFETY UNDER THE CHILD MALTREATMENT ACT TO THE DEPARTMENT OF HUMAN SERVICES; TO REMOVE ADDITIONAL REPORTING REQUIREMENTS UNDER THE CHILD MALTREATMENT ACT; TO ALLOW FOR A TRANSITION PROCESS TO COMPLETE THE TRANSFERS OF THE CHILD ABUSE HOTLINE AND ALL CIVIL CHILD MALTREATMENT INVESTIGATIONS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO TRANSFER THE CHILD ABUSE HOTLINE AND ALL CIVIL CHILD MALTREATMENT INVESTIGATIONS FROM THE DEPARTMENT OF PUBLIC SAFETY TO THE DEPARTMENT OF HUMAN SERVICES; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Purpose and legislative intent.



(a)(1) It is the intent of the General Assembly that civil child maltreatment investigations should be conducted separate and apart from criminal investigations involving child victims.

(2) Thus, the Child Abuse Hotline, currently administered by the Division of Arkansas State Police, shall be transferred to the Department of Human Services for regular administration no sooner than July 1, 2023, and no later than December 31, 2023.

(b) Further, the General Assembly, in passing this act, intends to abolish the Crimes Against Children Division of the Division of Arkansas State Police and transfer all current civil child maltreatment duties to the Department of Human Services no sooner than July 1, 2025, and no later than December 31, 2025.

(c) For both the transfer of the Child Abuse Hotline and the transfer of all civil child maltreatment duties, the Secretary of the Department of Human Services shall provide written notice to the Secretary of the Department of Public Safety, the Chief Fiscal Officer of the State, the Governor, and the Director of the Bureau of Legislative Research of the date that the transfer is being initiated, as well as the date that the process of the transfer has been completed.

(d)(1) Lastly, the General Assembly recognizes that there are statutes in the Arkansas Code regarding civil child maltreatment investigations which reference the conducting of said investigations by the Division of Arkansas State Police, but which will need to remain in effect during this multiyear transition phase.

(2) It is the intent of the General Assembly to amend those statutes accordingly in a later Regular Session to allow for necessary administration of current ongoing civil child maltreatment cases during the transition phase.

SECTION 2. DO NOT CODIFY. Transfer of the Child Abuse Hotline from the Department of Public Safety to the Department of Human Services.

(a) The Child Abuse Hotline shall be transferred by a cabinet-level department transfer under § 25-43-101 et seq. from the Department of Public Safety to the Department of Human Services no sooner than July 1, 2023, and no later than December 31, 2023.

(b) The administrative functions of the Child Abuse Hotline are

transferred by a cabinet-level department transfer under § 25-43-902 from the Department of Public Safety to the Department of Human Services no sooner than July 1, 2023, and no later than December 31, 2023.

(c) The statutory authority, powers, duties, functions, records, personnel, property, contracts, and unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting or purchasing of the Child Abuse Hotline, shall be transferred to the Department of Human Services no sooner than July 1, 2023, and no later than December 31, 2023.

(d)(1) The transfer of the Child Abuse Hotline does not affect the orders, rules, regulations, directives, or standards made or promulgated by the Child Abuse Hotline before the effective date of this act.

(2) The orders, rules, regulations, directives, or standards under subdivision (d)(1) of this section shall continue with full force and effect until amended or repealed under authority given by law.

(e) The Department of Public Safety shall grant access to and provide all information requested by the Department of Human Services to accomplish the transfer of the Child Abuse Hotline and the mission of the Child Abuse Hotline.

(f) For both the transfer of the Child Abuse Hotline and the transfer of all civil child maltreatment duties, the Secretary of the Department of Human Services shall provide written notice to the Secretary of the Department of Public Safety, the Chief Fiscal Officer of the State, the Governor, and the Director of the Bureau of Legislative Research of the date that the transfer is being initiated, as well as the date that the process of the transfer has been completed.

SECTION 3. Arkansas Code § 6-18-712(a), concerning posting the Child Abuse Hotline telephone number in public schools and open-enrollment charter schools, is amended to read as follows:

(a) Each public school and open-enrollment charter school shall post a sign that contains the toll-free telephone number for the Child Abuse Hotline established by the Department of Human Services ~~and the Division of Arkansas State Police~~ under § 12-18-301.

SECTION 4. Arkansas Code § 12-8-106(c), concerning the authority of

the Division of Arkansas State Police to establish a Crimes Against Children Division and to administer the Child Abuse Hotline, is repealed.

~~(c) The Division of Arkansas State Police shall have the authority to establish a Crimes Against Children Division, either through transfer or by contract, to conduct child abuse investigations, to administer the Child Abuse Hotline, and, when consistent with rules promulgated by the Division of Arkansas State Police, to provide training and technical assistance to local law enforcement in conducting child abuse investigations.~~

SECTION 5. Arkansas Code § 12-8-501 is amended to read as follows:

12-8-501. Legislative intent.

(a) The General Assembly recognizes that:

~~(1) The the state has a responsibility to:~~

(1) Provide competent and thorough child abuse maltreatment investigations which are sensitive to the needs of children and families; and

(2) Ensure that civil child maltreatment investigations are conducted separate and apart from ongoing criminal investigations involving child victims.

~~(2) It is difficult for caseworkers with the Department of Human Services, which is currently charged with the responsibilities of investigating child abuse and providing services to children and families, to separate their dual roles as investigators and service providers;~~

~~(3) Many studies show that child abuse investigations are compromised when these very different functions are not separated; and~~

~~(4) Child abuse is a crime and suspected child abuse should be investigated with due diligence by trained law enforcement officers.~~

(b) Therefore, it is declared to be the intent of this General Assembly to authorize abolish the Crimes Against Children Division of the Department Division of Arkansas State Police to+ and to transfer all current civil child maltreatment duties to the Department of Human Services.

~~(1) Create a Crimes Against Children Division, either through transfer or by contract;~~

~~(2) Conduct investigations into severe child abuse as defined by interagency agreement; and~~

~~(3) Administer the Child Abuse Hotline.~~

SECTION 6. Arkansas Code § 12-8-502 is repealed.

~~12-8-502. Transfer of powers and duties—Sections of unit—Sharing of information.~~

~~(a) When the powers and duties of the Department of Human Services in regard to the Child Abuse Hotline and child abuse investigations are transferred to the Department of Arkansas State Police or when the Department of Human Services and the Department of Arkansas State Police contract for the administration of the Child Abuse Hotline or for the Department of Arkansas State Police to conduct child abuse investigations, or both, the Department of Arkansas State Police shall establish a Crimes Against Children Division.~~

~~(b) The division shall consist of two (2) sections:~~

~~(1)(A) The Investigation Section, which shall be staffed with civilian personnel and shall be responsible for the investigation of allegations of child abuse in accordance with the Child Maltreatment Act, § 12-18-101 et seq.~~

~~(B) Unless the case involves alleged severe maltreatment, if at any point during the investigation of alleged child maltreatment the information gathered becomes sufficient for a possible criminal prosecution, then the case shall be referred for further investigation to the appropriate law enforcement agency.~~

~~(C) The Investigation Section shall complete an investigation of all cases assigned to the Investigation Section and refer the case to a local law enforcement agency or a prosecuting attorney for possible criminal prosecution; and~~

~~(2) The Child Abuse Hotline Section, which shall administer twenty-four hour toll-free inward wide-area telephone services (INWATS) to report to the Department of Arkansas State Police information regarding possible incidents of child abuse.~~

~~(c)(1) The division shall develop and maintain statewide statistics regarding the incidence of child abuse.~~

~~(2) Each county and city law enforcement agency conducting child abuse investigations through referral from the Child Abuse Hotline shall report the status and disposition of these investigations to the division on a monthly basis.~~

~~(d)(1) If the powers and duties of the Department of Human Services in~~

~~regard to the Child Abuse Hotline and child abuse investigations are transferred to the Department of Arkansas State Police, the division and the Department of Human Services shall enter into a memorandum of understanding that shall include provisions that address the sharing of information reported to the Child Abuse Hotline with the Department of Human Services when such information is necessary for the division to provide appropriate service delivery to children and families.~~

~~(2) If the Department of Human Services and the Department of Arkansas State Police contract for the administration of the Child Abuse Hotline or for the Department of Arkansas State Police to conduct child abuse investigations, or both, the contract shall include provisions that address the sharing of information reported to the Child Abuse Hotline with the Department of Human Services when such information is necessary for the division to provide appropriate service delivery to children and families.~~

SECTION 7. Arkansas Code § 12-8-503 is amended to read as follows:

12-8-503. Transfer of powers and duties – Executive orders –
Contracts.

(a)(1) The Governor shall issue an executive order transferring the powers and duties of the ~~Department of Human Services~~ Division of Arkansas State Police in regard to the Child Abuse Hotline to the ~~Department of Arkansas State Police~~ Department of Human Services by a type 2 transfer as defined in § 25-2-105 or the ~~Department of Human Services~~ department and the ~~Department of Arkansas State Police~~ division shall enter into a contract for the administration of the Child Abuse Hotline in accordance with this subchapter.

(2) Personnel transferred with the Child Abuse Hotline shall be required to meet employment standards and policies established by the ~~Department of Arkansas State Police~~ department in order to retain their employment.

(b)(1) The Governor shall issue an executive order transferring the powers and duties of the ~~Department of Human Services~~ division in regard to child abuse investigations to the ~~Department of Arkansas State Police~~ department by a type 2 transfer as defined in § 25-2-105 or the ~~Department of Human Services~~ department and the ~~Department of Arkansas State Police~~ division shall enter into a contract for the ~~Department of Arkansas State~~

~~Police~~ department to conduct child abuse investigations in accordance with this subchapter.

(2) Personnel transferred in regard to child abuse investigations shall be required to meet employment standards and policies established by the ~~Department of Arkansas State Police~~ department in order to retain their employment.

SECTION 8. Arkansas Code § 12-8-504 is amended to read as follows:

12-8-504. Transition plan – Continuous service.

(a) If a transfer of child abuse investigations occurs, any and all statutory authority, powers, duties, functions, records, authorized positions, property, unexpended balances of appropriations, allocations, or other funds of the ~~Division of Children and Family Services of the Department of Human Services~~ Division of Arkansas State Police for the purposes of child abuse investigations to be transferred to the ~~Department of Arkansas State Police~~ Department of Human Services shall be transferred only after the development of a transition plan that will ensure the efficient and effective transfer of the powers and duties of the ~~Department of Human Services~~ Division of Arkansas State Police to the ~~Department of Arkansas State Police~~ Department of Human Services so that there is continuous service delivery to and protection of the children of the State of Arkansas.

~~(b) If the Department of Human Services and the Department of Arkansas State Police enter into a contract for the Department of Arkansas State Police to conduct child abuse investigations, the contract shall include a transition plan that ensures continuous service delivery to and protection of the children of the State of Arkansas.~~

~~(c)~~ (b) The Department of Human Services and the ~~Department~~ Division of Arkansas State Police shall submit for review any transition plan developed under this section to 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 9. Arkansas Code § 12-8-505 is repealed.

~~12-8-505. Child abuse hotline and investigations.~~

~~The Child Abuse Hotline and child abuse investigations referred to in this subchapter shall be operated and conducted in accordance with the Child~~

~~Maltreatment Act, § 12-18-101 et seq.~~

SECTION 10. Arkansas Code § 12-8-508 is repealed.

~~12-8-508. Provision of information and assistance.~~

~~Notwithstanding a rule to the contrary, upon request of a member of the General Assembly or legislative staff or upon request of a legislative committee, the Crimes Against Children Division of the Division of Arkansas State Police shall immediately provide information requested with respect to child welfare as contemplated under the Arkansas Child Welfare Public Accountability Act, § 9-32-201 et seq.~~

SECTION 11. Arkansas Code § 12-8-509 is repealed.

~~12-8-509. Additional reporting required.~~

~~(a) The state agency or entity responsible for administering the twenty-four-hour toll-free Child Abuse Hotline or investigating an incident of neglect as defined under § 12-18-103(14)(B) shall:~~

~~(1) Develop and maintain statewide statistics of the incidents of neglect reported or investigated under § 12-18-103(14)(B);~~

~~(2)(A) Annually report no later than October 1 to the following:~~

~~(i) The Senate Interim Committee on Children and Youth;~~

~~(ii) The House Committee on Aging, Children and Youth, Legislative and Military Affairs;~~

~~(iii) The Senate Committee on Public Health, Welfare, and Labor; and~~

~~(iv) The House Committee on Public Health, Welfare, and Labor.~~

~~(B) The annual report under this section shall include all findings and statistics regarding incidents of neglect reported or investigated under § 12-18-103(14)(B), including, but not limited to, the following information:~~

~~(i) The age of the mother;~~

~~(ii) The type of illegal substance to which the newborn child was exposed prenatally;~~

~~(iii) The estimated gestational age of the newborn child at the time of birth; and~~

~~(iv) The newborn child's health problems; and
 (3)(A) Notify each mandatory reporter who makes a call to the Child Abuse Hotline if the mandatory reporter's call is not accepted or is screened out on a subsequent Child Abuse Hotline supervisor review.~~

~~(B) The notification required under subdivision (a)(3)(A) of this section shall be made within forty eight (48) hours, excluding weekends and holidays, after a mandatory reporter makes a call to the Child Abuse Hotline that is not accepted or is screened out on a subsequent Child Abuse Hotline supervisor review.~~

~~(b) If more than one (1) state agency or entity is responsible for administering the twenty-four-hour toll-free Child Abuse Hotline or investigating an incident of neglect as defined under § 12-18-103(14)(B), then the reporting under this section shall be a collaborative effort by all state agencies or entities involved.~~

SECTION 12. Arkansas Code § 12-18-301(b), concerning the creation of the Child Abuse Hotline, is amended to read as follows:

(b) The Child Abuse Hotline is a unit established within the Department of Human Services ~~and the Division of Arkansas State Police~~, or ~~their~~ its designee, with the purpose of receiving and recording notifications and reports under this chapter.

SECTION 13. Arkansas Code § 12-18-301, concerning the creation of the Child Abuse Hotline, is amended to add an additional subsection to read as follows:

(e) No sooner than July 1, 2023, and no later than December 31, 2023, the Child Abuse Hotline shall be transferred from the Division of Arkansas State Police to the Department of Human Services.

SECTION 14. Arkansas Code § 12-18-303(e)(2), concerning the establishment of procedures for the Child Abuse Hotline, is amended to read as follows:

(2)(A) The Department of Human Services ~~and the Division of Arkansas State Police~~ shall establish procedures for the Child Abuse Hotline.

(B) The procedures established by the Department of Human Services ~~and the Division of Arkansas State Police~~ shall include without

limitation the:

(i) Creation of a secondary review of an accepted report of child maltreatment by the investigating agency assigned under § 12-18-601 to ensure that the report of child maltreatment meets the requirements of this section; and

(ii) Ability of the Child Abuse Hotline and the investigating agency to contact the Department of Human Services to obtain or determine information relevant to whether a report of child maltreatment should be accepted.

SECTION 15. Arkansas Code § 12-18-506 is amended to read as follows:

12-18-506. Notice when the alleged offender works with children, the elderly, an individual with a disability, an individual with a mental illness, is engaged in child-related activities, or is a juvenile.

(a) If the Child Abuse Hotline receives a report naming as an alleged offender a person who is engaged in child-related activities or employment, works with the elderly, an individual with a disability, or an individual with a mental illness, or is a juvenile and the Department of Human Services or ~~the Department of Arkansas State Police~~ Division of Arkansas State Police has determined that children, the elderly, or individuals with a disability or mental illness under the care of the alleged offender appear to be at risk of maltreatment by the alleged offender, the ~~Department of Human Services department~~ Department of Human Services department or ~~the Department of Arkansas State Police~~ may notify the following of the report made to the Child Abuse Hotline:

- (1) The alleged offender's employer;
- (2) The school superintendent, principal, or a person in an equivalent position where the alleged offender is employed;
- (3) The person in charge of a paid or volunteer activity; and
- (4) The appropriate licensing or registering authority to the extent necessary to carry out its official responsibilities.

(b) The ~~Department of Human Services department~~ Department of Human Services department and the ~~Department of Arkansas State Police~~ shall promulgate rules to ensure that notification required under subsection (a) of this section is specifically approved by a responsible manager in the ~~Department of Human Services department~~ Department of Human Services department or ~~the Department of Arkansas State Police~~ before the notification is made.

(c) If the ~~Department of Human Services department~~ Department of Human Services department and the ~~Department~~

~~of Arkansas State Police division~~, based on information gathered during the course of the investigation, determine that there is no preponderance of the evidence indicating that children under the care of the alleged offender appear to be at risk, the ~~Department of Human Services department~~ and the ~~Department of Arkansas State Police division~~ shall immediately notify the previously notified person or entity of that information.

(d)(1) If the Child Abuse Hotline receives a report naming a juvenile as an alleged offender who is in a setting or circumstances where other children may be at risk, the ~~Department of Human Services department~~ and the ~~Department of Arkansas State Police~~ may notify the entity or person in charge about the Child Abuse Hotline report.

(2) The ~~Department of Human Services department~~ and the ~~Department of Arkansas State Police~~ shall promulgate rules to ensure that the notification required under subsection (d) of this section is specifically approved by a responsible manager in the ~~Department of Human Services department~~ ~~or the Department of Arkansas State Police~~ before notification is made.

(3) If the ~~Department of Human Services department~~ and the ~~Department of Arkansas State Police division~~, based on information gathered during the course of the investigation, determine that there is no preponderance of the evidence indicating that children appear to be at risk, the ~~Department of Human Services department~~ and the ~~Department of Arkansas State Police division~~ shall immediately notify the person or entity originally notified under subdivision (d)(1) of this section of that information.

SECTION 16. Arkansas Code § 12-18-507 is amended to read as follows:

12-18-507. Notice when the alleged victim is a resident of a facility licensed, registered, or operated by the state.

(a) If the Child Abuse Hotline receives a report that a client or a resident of a facility licensed or registered by the State of Arkansas has been subjected to child maltreatment while at the facility, the Department of Human Services ~~and the Department of Arkansas State Police~~ shall immediately notify the facility director and the facility's licensing or registering authority of the Child Abuse Hotline's receipt of a report of suspected child maltreatment.

(b) If the Child Abuse Hotline receives a report that a client or a resident of a facility operated by the ~~Department of Human Services~~ department or a facility operated under contract with the ~~Department of Human Services~~ department has been subjected to child maltreatment while at the facility, the ~~Department of Human Services~~ department and the ~~Department of Arkansas State Police~~ shall immediately notify the appropriate division director and the facility director of the Child Abuse Hotline's receipt of initial report of suspected child maltreatment.

(c) If the Child Abuse Hotline receives a report that a child in the custody of the ~~Department of Human Services~~ department has been subjected to child maltreatment while in the custody of the ~~Department of Human Services~~ department, the ~~Department of Human Services~~ department and the ~~Department of Arkansas State Police~~ shall immediately notify the appropriate division director of the Child Abuse Hotline's receipt of an initial report of suspected child maltreatment.

SECTION 17. Arkansas Code § 12-18-508 is amended to read as follows:

12-18-508. Notice to United States military organizations of alleged child maltreatment – Definitions.

(a) As used in this section:

(1) "Active duty service member" means a military member on full-time duty in the United States Army, United States Marine Corps, United States Navy, or United States Air Force;

(2) "Child" means a biological child, adopted child, stepchild, foster child, or ward of an active duty service member; and

(3) "Family advocacy program" means a congressionally mandated United States Department of Defense activity implemented through branches of the United States Armed Forces to address domestic abuse and child abuse through prevention, response, clinical assessment, treatment, and related services for active duty service members and their families.

(b) When the Child Abuse Hotline accepts a report involving as an alleged victim a child of an active duty service member, the Department of Human Services or the Division of Arkansas State Police shall immediately notify the applicable family advocacy program or other person or entity designated by the military authority for the military installation associated with the active duty service member.

(c) When the Child Abuse Hotline accepts a report involving as an alleged offender a person who is an active duty service member, the Department of Human Services or the Division of Arkansas State Police shall immediately notify the applicable family advocacy program or other person or entity designated by the military authority for the military installation associated with the active duty service member.

(d)(1) When the Child Abuse Hotline accepts a report alleging child maltreatment that occurred during an activity conducted or sanctioned by the United States Department of Defense or its subdivisions, or occurred at a facility operated by the United States Department of Defense or its subdivisions, the Department of Human Services or the Division of Arkansas State Police shall immediately notify the applicable family advocacy program or other person or entity designated by the military authority for the military installation associated with the activity or facility.

(2) Facilities covered under the notification requirement in subdivision (d)(1) of this section include without limitation all military installations and recruiting locations, as well as schools, daycares, and youth programs operated by the United States Department of Defense or its subdivisions, and schools, daycares, and youth programs that are allowed to operate on military installations, recruiting locations, or other military facilities.

(e) The notice required under this section shall include notice of the Child Abuse Hotline's receipt of a report of suspected child maltreatment.

(f) The Department of Human Services ~~and the Division of Arkansas State Police~~ may promulgate rules and enter into memoranda of understanding with the United States Department of Defense and its subdivisions to ensure that the notification required under this section is provided.

SECTION 18. Arkansas Code § 25-43-902(a), concerning the administrative functions of state entities that are transferred to the Department of Human Services, is amended to add an additional subdivision to read as follows:

(16) The Child Abuse Hotline, created under § 12-18-301.

SECTION 19. Arkansas Code § 25-43-1402(a)(6), concerning the administrative functions of the Child Abuse Hotline being transferred to the

Department of Public Safety, is repealed.

~~(6) The Child Abuse Hotline, created under § 12-18-301,~~

SECTION 20. Arkansas Code § 25-43-1402(a)(7), concerning the administrative functions of the Crimes Against Children Division being transferred to the Department of Public Safety, is repealed.

~~(7) The Crimes Against Children Division, created under § 12-8-502.~~

SECTION 21. DO NOT CODIFY. Delayed effective dates.

(a) SECTIONS 4, 6, 10, and 20 of this act will become effective on the date of December 31, 2025.

(b) SECTIONS 9, 18, and 19 of this act will become effective on the date that the transfer of the Child Abuse Hotline from the Department of Public Safety to the Department of Human Services under this act has been completed.

SECTION 22. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Child Abuse Hotline preserves the public peace, health, and safety by providing a vehicle for the reporting of suspected child maltreatment under the Child Maltreatment Act, § 12-18-101 et seq.; that this act provides for the transfer of the Child Abuse Hotline to the Department of Human Services; and that this act should become effective on July 1, 2023, to coincide with the appropriation bills of the Department of Public Safety and the Department of Human Services and ensure that the Child Abuse Hotline continues to provide its vital services as the transfer is implemented and does not experience any issues with funding under this transfer. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2023.