

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

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: H3/16/23
A Bill

HOUSE BILL 1570

By: Representative K. Brown

For An Act To Be Entitled

AN ACT TO AMEND "QUINCY'S LAW" CONCERNING PHYSICAL EXAMS AND OTHER TESTING IN AN INVESTIGATION INVOLVING ALLEGED ABUSE UNDER THE CHILD MALTREATMENT ACT; TO PROVIDE FOR THE RIGHT OF A PARENT, GUARDIAN, OR CUSTODIAN TO BE PROVIDED WITH THE MEDICAL RECORDS OF A CHILD WHO HAS BEEN REMOVED FROM THE CUSTODY OF THE PARENT, PUTATIVE PARENT, GUARDIAN, OR CUSTODIAN OR IS IN THE CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND "QUINCY'S LAW" CONCERNING TESTING IN CERTAIN INVESTIGATIONS UNDER THE CHILD MALTREATMENT ACT; TO AMEND THE LAW REGARDING THE RIGHT TO MEDICAL RECORDS UNDER THE CHILD MALTREATMENT ACT; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 12-18-614(b)(1), concerning physical exams and other testing under the Child Maltreatment Act, is amended to read as follows:

(b)(1) If the report of child maltreatment or suspected child maltreatment alleges abuse as defined in § 12-18-103, the alleged offender may:

(A)(i) For the purpose of obtaining a second opinion,



request that the alleged victim be examined by a licensed healthcare provider of the alleged offender's choosing who:

(a) Did not perform the initial examination, test, or procedure described under subsection (a) of this section; and

(b) Routinely provides medical care to pediatric patients.

(ii) An examination performed under subdivision (b)(1)(A)(i) of this section ~~shall:~~

(a) Shall be paid for by the alleged offender or as otherwise covered by insurance or Medicaid; and

(b) May be requested by the alleged offender regardless of whether the alleged victim has been taken into or placed in the custody of the Department of Human Services; and

(B)(i) For the purpose of ruling out a possible differential diagnosis, request that a licensed healthcare provider who routinely provides medical care to pediatric patients examine the alleged victim to determine whether or not the alleged victim has ~~one (1) or more of the following medical conditions~~ a congenital cutaneous variant, bone fragility, a coagulation disorder, or another medical condition or genetic condition that may appear to be caused by suspected abuse or increase the risk of misdiagnosis of abuse as defined in § 12-18-103, including without limitation:

(a) Rickets;

(b) Ehlers-Danlos syndrome;

(c) Osteogenesis imperfecta;

(d) Vitamin D deficiency; or

(e) ~~Another medical condition that may:~~

Vitamin K deficiency.

~~(1) Appear to be caused by suspected abuse as defined in § 12-18-103; or~~

~~(2) Increase the risk of a misdiagnosis of abuse as defined in § 12-18-103.~~

(ii) An examination performed under subdivision (b)(1)(B)(i) of this section shall be paid for by the alleged offender or as otherwise covered by insurance or Medicaid.

(iii) If the alleged victim undergoes genetic

testing under subdivision (b)(1)(B)(i) of this section, the genetic testing shall include a complete family medical history even if the alleged victim's family members have not been diagnosed with a genetic condition.

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

12-18-624. Right of parent, guardian, or custodian to medical records of child – Definitions.

(a)(1) A court with jurisdiction may order a healthcare institution or practitioner to provide an alleged child victim's medical records to an alleged offender if the alleged offender:

(A) Has been accused of physical abuse; and

(B) Is a parent, putative parent, guardian, or custodian of the alleged child victim.

(2) For purposes of subsection (a)(1) of this section, physical abuse includes alleged physical manifestations of sexual abuse.

(3) A court with jurisdiction may enter a protective order restricting the dissemination of the medical records or from making any use of the medical records other than for purposes of a specific case before the court.

(4) Medical records shall include hospital or clinic records, physicians' records, or other healthcare records, including without limitation:

(A) An admissions form, discharge summary, history and physical, progress notes, physicians' orders, reports of operations, recovery room records, lab reports, consultation reports, medication administration records, nurses' notes, and other reports catalogued and maintained by the medical records department of a hospital, doctor's office, medical clinic, or any other medical facility; and

(B) A paper entry, electronic entry, or image that is:

(i) Captured in relation to a diagnosis, treatment, or other service provided to a child; or

(ii) Relied upon by a healthcare provider to diagnose or provide treatment or other services to a child.

(5) A healthcare institution or provider shall redact the alleged child victim's address, phone number, email address, and other

information regarding the alleged child victim's foster placement before providing medical records under this section.

(6) A healthcare institution or provider that fails to provide medical records under this section pursuant to a valid court order may be held in contempt of court under § 16-10-108.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that "Quincy's Law", Acts 2021, No. 976, is a crucial protection for persons who are the subject of an investigation under the Child Maltreatment Act, § 12-18-101 et seq.; that since the enactment of Quincy's Law in 2021, an additional need for further protections under Quincy's Law has been demonstrated, most notably to provide further clarity in child maltreatment investigations involving differential diagnoses that may present as possible child abuse without additional testing that the provisions in this act make available; and that numerous child maltreatment investigations are taking place at any given time, and thus there is an urgent need for the provisions in this act to become effective. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/K. Brown