

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

State of Arkansas
95th General Assembly
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As Engrossed: H2/24/25

A Bill

HOUSE BILL 1463

By: Representatives Hudson, L. Johnson

By: Senator G. Leding

For An Act To Be Entitled

AN ACT TO PROHIBIT DISCLOSURE OF NEUROPSYCHOLOGICAL
OR PSYCHOLOGICAL TEST MATERIALS OR TEST DATA; AND FOR
OTHER PURPOSES.

Subtitle

TO PROHIBIT DISCLOSURE OF
NEUROPSYCHOLOGICAL OR PSYCHOLOGICAL TEST
MATERIALS OR TEST DATA.

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

SECTION 1. Arkansas Code Title 17, Chapter 97, Subchapter 1, is amended to add an additional section to read as follows:

17-97-106. Disclosure of neuropsychological or psychological test materials or test data – Definitions.

(a) As used in this section:

(1) "Neuropsychological evaluation" means a testing method through which a neuropsychologist or a psychologist can acquire data about a person's cognitive, behavioral, and emotional functioning for purposes of diagnosing or confirming a diagnosis of cognitive deficiencies or abnormalities in the central nervous system;

(2) "Neuropsychological or psychological test data" means raw and scaled scores, a person's responses to test questions or stimuli, a neuropsychologist's or psychologist's notes and recordings concerning the person's statements and behavior during a neuropsychological evaluation or psychological evaluation, and the portions of neuropsychological or psychological test materials that include the person's responses;



(3) "Neuropsychological or psychological test materials" means manuals, instruments, protocols, assessment devices, scoring keys, test questions, and stimuli used in conducting a neuropsychological evaluation or psychological evaluation; and

(4) "Psychological evaluation" means a testing method through which a psychologist can acquire data about a person's cognitive and emotional functioning for purposes of determining cognitive ability, diagnosing a mental health condition, or confirming a mental health diagnosis.

(b)(1) Except as provided under subdivision (b)(2) and subsection (c) of this section, neuropsychological or psychological test materials shall not be disclosed to anyone, including the person who is the subject of the test, and are not subject to disclosure in any administrative, judicial, or legislative proceeding.

(2) A neuropsychologist or psychologist is not prohibited from offering a third party his or her testimony, expert testimony, written reports, or written communications, or any combination, based on his or her review of the neuropsychological or psychological test materials.

(c)(1) A person who is the subject of a neuropsychological evaluation or psychological evaluation may have all records relating to that evaluation, including neuropsychological or psychological test materials and neuropsychological or psychological test data, disclosed to any neuropsychologist or psychologist who is qualified to evaluate the test results and who is designated by the person to evaluate the test results.

(2) A neuropsychologist or psychologist designated to receive records under subdivision (c)(1) of this section shall not disclose the neuropsychological or psychological test materials to another person.

(d)(1) Except as provided in subdivision (d)(3) of this section, to ensure test security, a third-party observer shall not be present during the administration of psychological or neuropsychological tests.

(2) A third-party observer includes without limitation a family member, attorney, and insurance representative.

(3) Subdivision (d)(1) of this section does not apply if:

(A) The individual being tested has requested and received an accommodation under the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., to have an aide present;

(B) The individual does not adequately speak the language in which the test is formatted and requires a professional language interpreter;

(C) The individual is a minor and the third-party observer's presence is deemed necessary and appropriate by the examining licensed psychologist or other licensee who is properly trained in test administration and interpretation to facilitate the testing process;

(D) The individual is being observed by a licensed psychologist or other licensee who is properly trained in test administration and interpretation to facilitate the supervision of a trainee;

(E) The individual or the circumstances present a legitimate safety concern and the third-party observer is a security guard or law enforcement officer; or

(F)(i) The individual and the neuropsychologist or psychologist consent to an unmanned, unobtrusive camera, video recording device, or audio recording device that does not interfere with the neuropsychological evaluation or psychological evaluation.

(ii) A recording made under subdivision (d)(3)(F)(i) of this section may be provided to a neuropsychologist or psychologist or under a protective order.

(4)(A) The Attorney General's office shall retain its investigatory and subpoena powers under § 5-28-107, § 5-55-104, § 5-55-114, § 20-77-901 et seq., and § 25-16-705.

(B) The Arkansas State Medical Board shall retain its investigatory and subpoena powers under § 17-95-304.

(C) The Arkansas Psychology Board shall retain its investigatory powers under § 17-97-311.

(D) The Attorney General's office, the Arkansas State Medical Board, and the Arkansas Psychology Board shall be able to access and use any records obtained that would otherwise be subject to subsection (b) of this section in any legal, administrative, or judicial proceeding.

/s/Hudson