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4

As Engrossed: H3/13/19
A Bill

HOUSE BILL 1551

5 By: Representative Eubanks
6

7 **For An Act To Be Entitled**

8 AN ACT TO AMEND THE LAW CONCERNING THE
9 CONFIDENTIALITY OF RECORDS UNDER THE ARKANSAS
10 JUVENILE CODE OF 1989; CONCERNING SCHOOL NOTIFICATION
11 OF CERTAIN OFFENSES FOR WHICH A MINOR IS ADJUDICATED
12 OR CONVICTED; AND FOR OTHER PURPOSES.
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15 **Subtitle**

16 TO AMEND THE LAW CONCERNING THE
17 CONFIDENTIALITY OF RECORDS UNDER THE
18 ARKANSAS JUVENILE CODE OF 1989; AND
19 CONCERNING SCHOOL NOTIFICATION OF CERTAIN
20 OFFENSES FOR WHICH A MINOR IS ADJUDICATED
21 OR CONVICTED.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code Title 6, Chapter 10, is amended to add an
27 additional section to read as follows:

28 6-10-133. Notification to school district of the adjudication or
29 conviction of a minor – Confidentiality.

30 (a) For the purposes of this section, "minor" means a:

31 (1) Child who is under eighteen (18) years of age; or

32 (2) Person who is eighteen (18) years of age or older and is a
33 student in a public secondary school.

34 (b) Upon receiving a written request, a court may provide information
35 concerning the disposition of a minor who has been adjudicated delinquent or
36 convicted of a criminal offense to the school superintendent or the designee



1 of the school superintendent of the school district to which the minor
2 transfers, in which the minor is enrolled, or from which the minor receives
3 services.

4 (c) A prosecuting attorney shall notify the school superintendent or
5 the designee of the school superintendent of the school district to which a
6 minor transfers, in which the minor is enrolled, or from which the minor
7 receives services if the minor is adjudicated delinquent for or convicted of:

8 (1) An offense for which the minor could have been charged as an
9 adult;

10 (2) An offense involving a deadly weapon under § 5-1-102;

11 (3) Kidnapping under § 5-11-102;

12 (4) Battery in the first degree under § 5-13-201;

13 (5) Sexual indecency with a child under § 5-14-110;

14 (6) First, second, third, or fourth degree sexual assault under
15 §§ 5-14-124 – 5-14-127;

16 (7) A felony offense involving the unlawful use, sale or
17 possession of controlled substance listed under the Uniform Controlled
18 Substances Act, § 5-64-401 et seq.; or

19 (8) The unlawful possession of a handgun under § 5-73-119.

20 (d) Information provided under subsections (b) and (c) of this section
21 shall not be released in violation of any state or federal law protecting the
22 privacy of the minor.

23 (e)(1) An arresting agency shall orally notify the superintendent or
24 the designee of the superintendent of the school district to which the minor
25 transfers, in which the minor is enrolled, or from which the minor receives
26 services of the arrest or detention of the minor for one (1) or more of the
27 following offenses:

28 (A) An offense for which the minor could have been charged
29 as an adult;

30 (B) An offense involving a deadly weapon under § 5-1-102;

31 (C) Kidnapping under § 5-11-102;

32 (D) Battery in the first degree under § 5-13-201;

33 (E) Sexual indecency with a child under § 5-14-110;

34 (F) First, second, third, or fourth degree sexual assault
35 under §§ 5-14-124 – 5-14-127; or

36 (G) The unlawful possession of a handgun under § 5-73-119.

1 (2) The notice required under subdivision (e)(1) of this section
2 shall be provided within twenty-four (24) hours of the arrest or detention of
3 the minor or before the next school day, whichever is earlier.

4 (3)(A) The superintendent of the school district in which the
5 minor is enrolled or from which the minor receives services shall then
6 immediately notify:

7 (i) The principal of the school;
8 (ii) The resource officer of the school; and
9 (iii) Any other school official with a legitimate
10 educational interest in the minor.

11 (B) The arrest information shall:

12 (i) Be treated as confidential information; and
13 (ii) Not be disclosed by the superintendent or the
14 designee of the superintendent to any person other than a person listed in
15 subdivision (e)(3)(A) of this section.

16 (C) A person listed in subdivision (e)(3)(A) of this
17 section who is notified of the arrest or detention of a minor by the
18 superintendent or the designee of the superintendent shall maintain the
19 confidentiality of the information he or she receives.

20 (3) The arrest information shall be used by the school only for
21 the limited purpose of obtaining services for the minor or to ensure school
22 safety.

23 (f) Records of the arrest of, the detention of, investigation of, or
24 proceedings involving a minor are confidential and are not subject to
25 disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.,
26 unless:

27 (1) Authorized by a written order of the juvenile division of
28 circuit court;

29 (2) The arrest or the proceedings result in the minor being
30 formally charged in the criminal division of circuit court for a felony; or

31 (3) As allowed under this section or § 9-27-320.

32 (g)(1) Information regarding the arrest or detention of a minor and
33 proceedings related to the arrest or detention of the minor shall be
34 confidential unless the exchange of information is:

35 (A) For the purpose of obtaining services for the minor or
36 to ensure school safety;

1 (B) Reasonably necessary to achieve one (1) or both
2 purposes; and

3 (C) Under a written order by the circuit court.

4 (2) Information regarding the arrest or detention of a minor may
5 be given only to the following persons:

6 (A) A school counselor;

7 (B) A juvenile court probation officer or caseworker;

8 (C) A law enforcement officer;

9 (D) A spiritual representative designated by the minor or
10 his or her parents or legal guardian;

11 (E) A Department of Human Services caseworker;

12 (F) A community-based provider designated by the court,
13 the school, or the parent or legal guardian of the minor;

14 (G) A Department of Health representative;

15 (H) The minor's attorney ad litem or other court-appointed
16 special advocate; or

17 (I)(i) A school superintendent or the designee of the
18 superintendent of the school district to which the minor transfers, in which
19 the minor is enrolled, or from which the minor receives services.

20 (ii) A school superintendent or the designee of the
21 superintendent of the school district in which the minor is enrolled or from
22 which the minor receives services shall immediately notify the following
23 persons of information he or she obtains under subdivision (g)(1) of this
24 section:

25 (a) The principal of the school;

26 (b) The resource officer of the school; and

27 (c) Any other school official with a
28 legitimate educational interest in the minor.

29 (3) A person listed in subdivision (g)(2) of this section may
30 meet to exchange information, to discuss options for assistance to the minor,
31 to develop and implement a plan of action to assist the minor and to ensure
32 school safety.

33 (4) The minor and his or her parent or legal guardian shall be
34 notified within a reasonable time before a meeting and may attend any meeting
35 of the persons referred to in subdivision (g)(2) of this section when three
36 (3) or more individuals meet to discuss assistance for the minor or the

1 protection of the school due to the behavior of the minor.

2 (5) Medical records, psychiatric records, psychological records,
3 and related information shall remain confidential unless the minor's parent
4 or legal guardian waives confidentiality in writing specifically describing
5 the records to be disclosed between the persons listed in subdivision (g)(2)
6 of this section and the purpose for the disclosure.

7 (6) A person listed in subdivision (g)(2) of this section who
8 exchanges any information referred to in this section may be held civilly
9 liable for disclosure of the information if the person does not comply with
10 the limitations set forth in this section.

11 (h)(1) When a court orders a safety plan for a minor that restricts or
12 requires supervised contact with another minor as it relates to student or
13 school safety, the court shall direct that a copy of the safety plan and a
14 copy of the court order regarding the safety plan concerning student safety
15 be provided to the school superintendent, the designee of the superintendent,
16 and the principal of the school district to which the minor transfers, in
17 which the minor is enrolled, or from which the minor receives services.

18 (2) When a court order amends or removes any safety plan
19 outlined in subdivision (h)(1) of this section, the court shall direct that a
20 copy of the safety plan and a copy of the court order regarding the safety
21 plan, as it relates to student safety, be provided to the school
22 superintendent, or his or her designee, and the principal of the school
23 district to which the minor transfers, in which the minor is enrolled, or
24 from which the minor receives services.

25 (3) A school official who receives a court order and safety plan
26 or information concerning the court order and safety plan shall:

27 (A) Keep the information confidential and shall sign a
28 statement not to disclose the information concerning the court order and
29 safety plan that shall be kept by the superintendent or principal along with
30 the court order and safety plan;

31 (B) Keep the information confidential and shall not
32 disclose the information to a person not listed in subdivision (g)(2) of this
33 section;

34 (C) Include the information in the permanent educational
35 records of the minor; and

36 (D)(i) Treat the information and documentation contained

1 in the court order as education records under the Family Educational Rights
2 and Privacy Act, 20 U.S.C. § 1232g.

3 (ii) A school official shall not release, disclose,
4 or make available the information and documentation contained in the court
5 order for inspection to any party except as permitted under the Family
6 Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

7 (iii) However, the local education agency shall not
8 under any circumstance release, disclose, or make available for inspection to
9 the public, any college, university, institution of higher education,
10 vocational or trade school, or any past, present, or future employer of the
11 student the court order or safety plan portion of a student record of the
12 minor.

13 (4) When a minor attains an age that he or she is no longer
14 under the jurisdiction of the juvenile division of circuit court, the safety
15 plan and the order regarding the safety plan shall be removed from the
16 permanent records of the minor at the local education agency and destroyed.

17
18 SECTION 2. Arkansas Code § 9-27-309(f) and (g), concerning the
19 confidentiality of records under the Arkansas Juvenile Code of 1989, are
20 amended to read as follows:

21 (f) This subchapter does not preclude prosecuting attorneys or the
22 court from providing information, upon written request, concerning the
23 disposition of ~~juveniles who have~~ a juvenile who has been adjudicated
24 delinquent to:

25 (1) The victim or his or her next of kin; or

26 (2) The school superintendent of the school district ~~in which~~
27 ~~the juvenile is currently enrolled~~ or the designee of the school
28 superintendent of the school district to which the juvenile transfers, in
29 which the juvenile is enrolled, or from which the juvenile receives services.

30 ~~(g) When a juvenile is adjudicated delinquent for an offense for which~~
31 ~~he or she could have been charged as an adult or for unlawful possession of a~~
32 ~~handgun, § 5-73-119, the prosecuting attorney shall notify the school~~
33 ~~superintendent of the school district in which the juvenile is currently~~
34 enrolled The prosecuting attorney shall notify the school superintendent or
35 the designee of the school superintendent of the school district to which the
36 juvenile transfers, in which the juvenile is enrolled, or from which the

1 juvenile receives services if the juvenile is adjudicated delinquent for:

2 (1) An offense for which the juvenile could have been charged as
3 an adult;

4 (2) An offense involving a deadly weapon under § 5-1-102;

5 (3) Kidnapping under § 5-11-102;

6 (4) Battery in the first degree under § 5-13-201;

7 (5) Sexual indecency with a child under § 5-14-110;

8 (6) First, second, third, or fourth degree sexual assault under
9 §§ 5-14-124 – 5-14-127;

10 (7) A felony offense involving the unlawful use, sale, or
11 possession of controlled substance listed under the Uniform Controlled
12 Substances Act, § 5-64-401 et seq.; or

13 (8) The unlawful possession of a handgun under § 5-73-119.

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15 SECTION 3. Arkansas Code § 9-27-309(i), concerning the confidentiality
16 of records under the Arkansas Juvenile Code of 1989, is amended to read as
17 follows:

18 (i)(1) If a juvenile is arrested for unlawful possession of a firearm
19 under § 5-73-119, an offense involving a deadly weapon under § 5-1-102, or
20 battery in the first degree under § 5-13-201, the arresting agency shall ~~as~~
21 ~~soon as practical and with all reasonable haste cause written notification of~~
22 ~~the arrest to be given to the superintendent of the school district in which~~
23 ~~the juvenile is currently enrolled~~ orally notify the superintendent or the
24 designee of the superintendent of the school district to which the juvenile
25 transfers, in which the juvenile is enrolled, or from which the juvenile
26 receives services of the offense for which the juvenile was arrested or
27 detained within twenty-four (24) hours of the arrest or detention or before
28 the next school day, whichever is earlier.

29 (2)(A) The superintendent of the school district to which the
30 juvenile transfers, in which the juvenile is enrolled, or from which the
31 juvenile receives services shall then immediately notify the principal and
32 the resource officer of the school in which the juvenile is currently
33 enrolled.;

34 (i) The principal of the school;

35 (ii) The resource officer of the school; and

36 (iii) Any other school official with a legitimate

1 educational interest in the juvenile.

2 (B) The arrest information shall:

3 (i) ~~be~~ Be treated as confidential information; and

4 (ii) ~~shall not~~ Not be disclosed by the

5 superintendent or the designee of the superintendent to any person other than

6 ~~the principal and resource officer~~ a person listed in subdivision (i)(2)(A)

7 of this section, who shall also maintain the information as confidential.

8 (C) A person listed in subdivision (i)(2)(A) of this

9 section who is notified of the arrest or detention of a juvenile by the

10 superintendent or the designee of the superintendent shall maintain the

11 confidentiality of the information he or she receives.

12 (3) The arrest information shall be used by the school only for

13 the limited purpose of obtaining services for the juvenile or to ensure

14 school safety.

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16 SECTION 4. Arkansas Code § 9-27-309(k) and (l), concerning the
17 confidentiality of records under the Arkansas Juvenile Code of 1989, are
18 amended to read as follows:

19 (k) Information regarding the arrest or detention of a juvenile and
20 related proceedings under this subchapter shall be confidential unless the
21 exchange of information is:

22 (1) For the purpose of obtaining services for the juvenile, to
23 ensure school safety, or to ensure public safety;

24 (2) Reasonably necessary to achieve one (1) or ~~both~~ more
25 purposes; and

26 (3) Under a written order by the circuit court.

27 (l)(1) The information may be given only to the following persons:

28 (A) A school counselor;

29 (B) A juvenile court probation officer or caseworker;

30 (C) A law enforcement officer;

31 (D) A spiritual representative designated by the juvenile
32 or his or her parents or legal guardian;

33 (E) A Department of Human Services caseworker;

34 (F) A community-based provider designated by the court,
35 the school, or the parent or legal guardian of the juvenile;

36 (G) A Department of Health representative; ~~or~~

1 (H) The juvenile's attorney ad litem or other court-
2 appointed special advocate; or

3 (I)(i) A school superintendent or the designee of the
4 superintendent of the school district to which the juvenile transfers, in
5 which the juvenile is enrolled, or from which the juvenile receives services.

6 (ii) A school superintendent or the designee of the
7 superintendent of the school district in which the juvenile is enrolled or
8 from which the juvenile receives services shall immediately notify the
9 following persons of information he or she obtains under subsection (k) of
10 this section:

11 (a) The principal of the school;

12 (b) The resource officer of the school; and

13 (c) Any other school official with a
14 legitimate educational interest in the juvenile.

15 (2) The persons listed in subdivision (1)(1) of this section may
16 meet to exchange information, to discuss options for assistance to the
17 juvenile, to develop and implement a plan of action to assist the juvenile,
18 to ensure school safety, and to ensure public safety.

19 (3) The juvenile and his or her parent or legal guardian shall
20 be notified within a reasonable time before a meeting and may attend any
21 meeting of the persons referred to in subdivision (1)(1) of this section when
22 three (3) or more individuals meet to discuss assistance for the juvenile or
23 protection of the public due to the juvenile's behavior.

24 (4) Medical records, psychiatric records, psychological records,
25 and related information shall remain confidential unless the juvenile's
26 parent or legal guardian waives confidentiality in writing specifically
27 describing the records to be disclosed between the persons listed in
28 subdivision (1)(1) of this section and the purpose for the disclosure.

29 (5) Persons listed in subdivision (1)(1) of this section who
30 exchange any information referred to in this section may be held civilly
31 liable for disclosure of the information if the person does not comply with
32 limitations set forth in this section.

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34 SECTION 5. Arkansas Code § 9-27-309(m)(1)-(3), concerning the
35 confidentiality of records under the Arkansas Juvenile Code of 1989, are
36 amended to read as follows:

1 (m)(1) When a court orders that a juvenile have a safety plan that
2 restricts or requires supervised contact with another juvenile or juveniles
3 as it relates to student or school safety, the court shall direct that a copy
4 of the safety plan and a copy of the court order regarding the safety plan
5 concerning student or school safety be provided to the school superintendent
6 and principal ~~where the~~ of the school district to which the juvenile
7 transfers, in which the juvenile is enrolled, or from which the juvenile
8 receives services.

9 (2) When a court order amends or removes any safety plan
10 outlined in subdivision (m)(1) of this section, the court shall direct that a
11 copy of the safety plan and a copy of the court order regarding the safety
12 plan, as it relates to student or school safety, be provided to the school
13 superintendent ~~superintendent and principal where the~~ of the school district
14 to which the juvenile transfers, in which the juvenile is enrolled, or from
15 which the juvenile receives services.

16 (3)(A) The superintendent or principal of the school district in
17 which the juvenile is enrolled or from which the juvenile receives services
18 shall provide verbal notification only to school officials who are necessary
19 to implement the safety plan as ordered by the court to ensure student
20 safety.

21 (B) This verbal notification may only be provided to
22 assistant principals, counselors, resource officers, and the school ~~employee~~
23 ~~who is~~ employees who are primarily responsible for the supervision of the
24 juvenile or responsible for the juvenile learning environment ~~where the~~
25 ~~juvenile is currently~~ of the juvenile in the school district in which the
26 juvenile is enrolled or from which the juvenile receives services, and bus
27 drivers, if applicable.

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29 /s/Eubanks
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