

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

# A Bill

HOUSE BILL 1912

5 By: Representatives Gates, M. Gray, G. Hodges, Lundstrum, Ballinger  
6 By: Senator A. Clark  
7

## For An Act To Be Entitled

9 AN ACT TO REQUIRE VIDEO AND AUDIO RECORDINGS OF IN-  
10 PERSON INTERACTIONS AND VERBAL COMMUNICATIONS THAT  
11 OCCUR DURING INVESTIGATIONS PERFORMED UNDER THE  
12 ARKANSAS JUVENILE CODE OF 1989 AND THE CHILD  
13 MALTREATMENT ACT; AND FOR OTHER PURPOSES.  
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## Subtitle

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17 TO REQUIRE VIDEO AND AUDIO RECORDINGS OF  
18 IN-PERSON INTERACTIONS AND VERBAL  
19 COMMUNICATIONS THAT OCCUR DURING  
20 INVESTIGATIONS PERFORMED UNDER THE  
21 ARKANSAS JUVENILE CODE OF 1989 AND THE  
22 CHILD MALTREATMENT ACT.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code Title 9, Chapter 27, Subchapter 3, is amended  
28 to add an additional section to read as follows:

29 9-27-369. Recording of investigations.

30 (a)(1) An employee of the Department of Human Services shall take a  
31 video and audio recording of any in-person interaction or verbal  
32 communication between the employee and a parent, child, relative, or other  
33 relevant person who is contacted during an investigation under this chapter  
34 if any details of the in-person interaction or verbal communication will be  
35 included in the case file or offered as evidence in a court proceeding.

36 (2) Before taking a video and audio recording as required under



1 this subsection, the employee shall advise the parent, child, relative, or  
2 other relevant person that:

3 (A) The parent, child, relative, or other relevant person  
4 is not required to speak with the employee;

5 (B) Any statement made by the parent, child, relative, or  
6 other relevant person may be used against him or her in a civil or criminal  
7 proceeding; and

8 (C) The parent, child, relative, or other relevant person  
9 has the right to seek the advice of counsel before making any statement.

10 (3)(A) The department shall catalogue and preserve video and  
11 audio recordings taken under this section in a manner that allows the video  
12 and audio recordings to be reproduced in a format that can be readily  
13 reviewed upon the request of a court or a party to a court proceeding under  
14 this chapter.

15 (B) A request for a video and audio recording taken under  
16 this section shall be submitted in writing to the department.

17 (C) The department shall provide the requesting court or  
18 party with the video and audio recording within fourteen (14) days of the  
19 date on which the department receives the request.

20 (b) A written summary or other testimony concerning the content of a  
21 video and audio recording required under this section shall not be accepted  
22 into evidence at a hearing unless the video and audio recording is provided  
23 to the requester at least ten (10) days before the scheduled hearing or, in  
24 the case of a probable cause or emergency hearing, at least twenty-four (24)  
25 hours before the probable cause or emergency hearing.

26 (c)(1) The department shall develop rules to implement this section.

27 (2) The rules developed by the department under subdivision  
28 (c)(1) of this section shall address:

29 (A) The operation and maintenance of video and audio  
30 recording equipment;

31 (B) The method for replacing defective or malfunctioning  
32 video and audio recording equipment;

33 (C) When an employee is required to use video and audio  
34 recording equipment;

35 (D) The duration of time for which the video and audio  
36 recordings shall be retained; and

1           (E) Procedures for documenting when a video and audio  
2 recording is not captured as required under this section.

3           (d) A video and audio recording or a transcript of a video and audio  
4 recording required under this section is subject to the same confidentiality  
5 as other records maintained by the department.

6           (e)(1) A video and audio recording or a transcript of a video and  
7 audio recording taken in accordance with this section may be offered as  
8 evidence subject to the provisions of the Arkansas Rules of Evidence if the  
9 video and audio recording contains a statement obtained by an employee of the  
10 department.

11           (2)(A) A video and audio recording or a transcript of a video  
12 and audio recording taken in accordance with this section may be offered to  
13 impeach or rebut the accuracy of a written record prepared by an employee of  
14 the department.

15           (B) However, if the video and audio recording or a  
16 transcript of the video and audio recording contains a statement of a person  
17 who does not testify during the court proceeding, the statement of the person  
18 who does not testify during the court proceeding is inadmissible for the  
19 truth of the matter asserted.

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

23           12-18-624. Recording of investigations.

24           (a)(1) An employee of the Department of Human Services or the  
25 Department of Arkansas State Police shall take a video and audio recording of  
26 any in-person interaction or verbal communication between the employee and a  
27 parent, child, relative, or other relevant person who is contacted during an  
28 investigation of a report of child maltreatment if any details of the in-  
29 person interaction or verbal communication will be included in the case file  
30 or offered as evidence in a court proceeding.

31           (2) Before taking a video and audio recording as required under  
32 this subsection, the employee shall advise the parent, child, relative, or  
33 other relevant person that:

34           (A) The parent, child, relative, or other relevant person  
35 is not required to speak with the employee;

36           (B) Any statement made by the parent, child, relative, or

1 other relevant person may be used against him or her in a civil or criminal  
2 proceeding; and

3 (C) The parent, child, relative, or other relevant person  
4 has the right to seek the advice of counsel before making any statement.

5 (3)(A) The Department of Human Services and the Department of  
6 Arkansas State Police shall catalogue and preserve video and audio recordings  
7 taken under this section in a manner that allows the video and audio  
8 recordings to be reproduced in a format that can be readily reviewed upon the  
9 request of a court or a party to a court proceeding under this chapter.

10 (B) A request for a video and audio recording required  
11 under this section shall be submitted in writing to the Department of Human  
12 Services or the Department of Arkansas State Police, as applicable.

13 (C) The Department of Human Services or the Department of  
14 Arkansas State Police shall provide the requesting court or party with the  
15 video and audio recording within fourteen (14) days of the date on which the  
16 Department of Human Services or the Department of Arkansas State Police  
17 receives the request.

18 (b) A written summary or other testimony concerning the content of a  
19 video and audio recording required under this section shall not be accepted  
20 into evidence at a hearing unless the video and audio recording is provided  
21 to the requesting court or party at least ten (10) days before the scheduled  
22 hearing or, in the case of a probable cause or emergency hearing, at least  
23 twenty-four (24) hours before the probable cause or emergency hearing.

24 (c) Rules promulgated by the Department of Human Services and the  
25 Department of Arkansas State Police pertaining to this section shall address:

26 (1) The operation and maintenance of video and audio recording  
27 equipment;

28 (2) The method for replacing defective or malfunctioning video  
29 and audio recording equipment;

30 (3) When an employee is required to use video and audio  
31 recording equipment;

32 (4) The duration of time for which the video and audio  
33 recordings shall be retained; and

34 (5) Procedures for documenting when a video and audio recording  
35 is not captured as required under this section.

36 (d) A video and audio recording or a transcript of a video and audio

1 recording required under this section is subject to the same confidentiality  
 2 as other records maintained by the Department of Human Services and the  
 3 Department of Arkansas State Police.

4 (e)(1) A video and audio recording or a transcript of a video and  
 5 audio recording taken in accordance with this section may be offered as  
 6 evidence subject to the Arkansas Rules of Evidence if the video and audio  
 7 recording contains a statement obtained by an employee of the Department of  
 8 Human Services or the Department of Arkansas State Police.

9 (2)(A) A video and audio recording or a transcript of a video  
 10 and audio recording taken in accordance with this section may be offered to  
 11 impeach or rebut the accuracy of a written record prepared by an employee of  
 12 the Department of Human Services or the Department of Arkansas State Police.

13 (B) However, if the video and audio recording or a  
 14 transcript of the video and audio recording contains a statement of a person  
 15 who does not testify during the court proceeding, the statement of the person  
 16 who does not testify during the court proceeding is inadmissible for the  
 17 truth of the matter asserted.

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