

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

As Engrossed: S2/20/17
A Bill

SENATE BILL 305

5 By: Senator A. Clark
6 By: Representative Hammer
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE DEFINITION OF "NEGLECT" AND THE
10 LAW CONCERNING CLOSURES OF CHILD MALTREATMENT
11 INVESTIGATIONS; TO MAKE CERTAIN ACTS OF A PARENT,
12 GUARDIAN, CUSTODIAN, OR FOSTER PARENT NONCRIMINAL;
13 AND FOR OTHER PURPOSES.
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Subtitle

16
17 TO AMEND THE DEFINITION OF "NEGLECT" AND
18 THE LAW CONCERNING CLOSURES OF CHILD
19 MALTREATMENT INVESTIGATIONS; AND TO MAKE
20 CERTAIN ACTS OF A PARENT, GUARDIAN,
21 CUSTODIAN, OR FOSTER PARENT NONCRIMINAL.
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23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. TEMPORARY LANGUAGE. DO NOT CODIFY. Legislative findings.

27 The General Assembly finds that:

28 (1) Everyone desires the safety of all children;

29 (2) A child raised under constant adult supervision misses
30 opportunities for growth and, as a result, may end up stunted developmentally
31 and physically;

32 (3) The alarming rise of obesity and diabetes in childhood is
33 almost certainly linked to the insistence of parents and guardians on driving
34 their children to school and activities instead of allowing their children to
35 walk;

36 (4) As measured by incidences of mental health difficulties,



1 today's over-supervised youth experience more difficulties upon reaching
2 adulthood than earlier generations;

3 (5) Earlier generations learned resilience by walking,
4 bicycling, playing, helping out, and solving problems without constant adult
5 intervention;

6 (6) Parents and guardians often are in the best position to
7 weigh the risks and make decisions concerning the safety of children under
8 their care, including where their children may go, with whom, and when; and

9 (7) The excessive investigation and prosecution of parents and
10 guardians who have done nothing more than briefly and safely permit their
11 children to remain unsupervised has introduced unnecessary governmental
12 intrusion into the homes of families and diverted valuable public resources
13 to inconsequential and trivial matters.

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15 SECTION 2. TEMPORARY LANGUAGE. DO NOT CODIFY. Legislative intent.

16 It is the intent of the General Assembly that this act:

17 (1) Protect and promote a parent or guardian's inherent right to
18 raise his or her children; and

19 (2) Protect a parent or guardian's decision to grant his or her
20 children unsupervised time to engage in activities that include without
21 limitation playing outside, walking to school, bicycling, remaining briefly
22 in a vehicle, and remaining at home.

23
24 SECTION 3. Arkansas Code Title 5, Chapter 27, Subchapter 1, is amended
25 to add an additional section to read as follows:

26 5-27-101. Noncriminal acts of parents, custodians, guardians, and
27 foster parents.

28 An act of a parent, custodian, guardian, or foster parent described
29 under § 12-18-103(14)(C) is not a criminal offense.

30
31 SECTION 4. Arkansas Code § 12-18-103(14), concerning the definition of
32 "neglect" under the Child Maltreatment Act, is amended to add an additional
33 subdivision to read as follows:

34 (C) "Neglect" does not include a parent, custodian,
35 guardian, or foster parent who permits his or her child to perform the
36 following actions unsupervised if the child is of sufficient capacity to

1 avoid immediate danger and a significant risk of harm:

2 (i) Travel to and from school including without
3 limitation traveling by walking, running, or bicycling;

4 (ii) Engage in outdoor play;

5 (iii) Remain for less than fifteen (15) minutes in a
6 vehicle if the temperature inside the vehicle is not or will not become
7 dangerously hot or cold; or

8 (iv) Remain at home before and after school if the
9 parent, custodian, guardian, or foster parent:

10 (a) Returns home on the same day on which the
11 parent, custodian, guardian, or foster parent gives the child permission to
12 remain at home;

13 (b) Makes provisions for the child to be able
14 to contact the parent, custodian, guardian, or foster parent on the same day
15 on which the parent, custodian, guardian, or foster parent gives the child
16 permission to remain at home; and

17 (c) Makes provisions for any reasonably
18 foreseeable emergencies that may arise on the same day on which the parent,
19 custodian, guardian, or foster parent gives the child permission to remain at
20 home;

21
22 *SECTION 5. Arkansas Code § 12-18-601(a), concerning the investigations*
23 *of reports of suspected child maltreatment, is amended to read as follows:*

24 *(a)(1) When a person, agency, corporation, or partnership then*
25 *providing substitute care for any child in the custody of the Department of*
26 *Human Services or a Department of Human Services employee or employee's*
27 *spouse or other person residing in the home is reported as being suspected of*
28 *child maltreatment, the investigation shall be conducted pursuant to*
29 *procedures established by the Department of Human Services.*

30 *(2) The Department of Human Services shall not refer for*
31 *investigation conduct described under § 12-18-103(14)(C).*

32
33 *SECTION 6. Arkansas Code § 12-18-602(a), concerning investigations*
34 *initiated by the Department of Human Services and the Department of Arkansas*
35 *State Police is amended to read as follows:*

36 *(a)(1) The Department of Human Services and the Department of Arkansas*

1 *State Police shall cause an investigation to be made upon receiving initial*
2 *notification of suspected child maltreatment or notification of a child*
3 *death.*

4 *(2) The Department of Human Services and the Department of*
5 *Arkansas State Police shall not initiate an investigation for conduct*
6 *described under § 12-18-103(14)(C).*

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8 *SECTION 7. Arkansas Code § 12-18-619, concerning the closure of child*
9 *maltreatment investigations by the Department of Human Services and the*
10 *Department of Arkansas State Police, is amended to add an additional*
11 *subsection to read as follows:*

12 *(d) The Department of Human Services and the Department of Arkansas*
13 *State Police shall close a child maltreatment investigation against a parent,*
14 *custodian, guardian, or foster parent who is alleged to have committed an act*
15 *described under § 12-18-103(14)(C).*

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18 */s/A. Clark*
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