

INTERIM STUDY PROPOSAL 2019-100

1  
2 State of Arkansas  
3 92nd General Assembly  
4 Regular Session, 2019

**A Bill**

SENATE BILL 13

5  
6 By: Senator A. Clark

7 Filed with: Senate Committee on Judiciary  
8 pursuant to A.C.A. §10-3-217.

9 **For An Act To Be Entitled**

10 AN ACT CONCERNING DRUG TESTING UNDER THE CHILD  
11 MALTREATMENT ACT; CONCERNING CHILD MALTREATMENT  
12 INVESTIGATION REPORTS; TO AMEND THE DEFINITION OF  
13 "NEGLECT"; TO AMEND THE LAW CONCERNING INVESTIGATIVE  
14 DETERMINATIONS; AND FOR OTHER PURPOSES.

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17 **Subtitle**

18 CONCERNING DRUG TESTING UNDER THE CHILD  
19 MALTREATMENT ACT; CONCERNING CHILD  
20 MALTREATMENT INVESTIGATION REPORTS; TO  
21 AMEND THE DEFINITION OF "NEGLECT"; AND TO  
22 AMEND THE LAW CONCERNING INVESTIGATIVE  
23 DETERMINATIONS.

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

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28 SECTION 1. Arkansas Code § 12-18-103(14), concerning the definition of  
29 "neglect" under the Child Maltreatment Act, is amended to add an additional  
30 subdivision to read as follows:

31 (C) "Neglect" does not include the:

32 (i) Refusal of a parent, guardian, custodian, or foster parent  
33 to consent or submit to a drug test that is not ordered by a court; or

34 (ii) Admission of past drug use by a parent, guardian,  
35 custodian, foster parent;

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

3 12-18-624. Drug testing notice.

4 (a) The Department of Human Services shall not drug test an alleged  
5 offender during a child maltreatment investigation unless the:

6 (1) Drug test is ordered by the court under § 9-13-109; or

7 (2) Department obtains the alleged offender's written consent to  
8 submit to a drug test.

9 (b)(1) The department shall provide a form for the written consent to  
10 submit to a drug test to the alleged offender from whom a drug test is  
11 sought.

12 (2)(A) The department may petition the court for an order  
13 requiring the alleged offender to submit to a drug test if the alleged  
14 offender does not sign the form provided to him or her under subdivision  
15 (b)(1) of this section.

16 (B) A petition for a court order under subdivision  
17 (b)(2)(A) of this section shall state the reasons for the department's need  
18 to drug test the alleged offender.

19 (c)(1) An alleged offender's refusal to consent to the department's  
20 request for a drug test under this section is an insufficient basis for the  
21 removal of a child from the custody of the alleged offender.

22 (2) An alleged offender's refusal to consent or submit to a drug  
23 test that is not ordered by the court does not prohibit the removal of a  
24 child from the custody of the alleged offender on another basis that  
25 constitutes an immediate threat of harm to the child.

26 (d) An alleged offender's failure to submit to a drug test ordered by  
27 the court is a sufficient basis for the removal of a child from the custody  
28 of the alleged offender.

29 (e) The result of a drug test performed under this section is  
30 inadmissible in court if the department fails to follow the department's  
31 policy in the administration of the drug test.

32  
33 SECTION 3. Arkansas Code § 12-18-701(f), concerning the admissibility  
34 of a child maltreatment investigation report in a proceeding related to child  
35 maltreatment, is repealed.

1           ~~(f) The report, exclusive of information identifying the person making~~  
2 ~~the notification, shall be admissible in evidence in any proceeding related~~  
3 ~~to child maltreatment.~~

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5           SECTION 4. Arkansas Code § 12-18-702 is amended to read as follows:  
6           12-18-702. Investigative determination.

7           Upon completion of an investigation under this chapter, the Department  
8 of Human Services and the Department of Arkansas State Police shall determine  
9 whether the allegations of child maltreatment are:

10           (1)(A) Unsubstantiated.

11                   (B) An unsubstantiated determination shall be entered when  
12 the allegation is not supported by a preponderance of the evidence~~†~~.

13                   (C) An unsubstantiated finding shall be removed from the  
14 Children's Reporting and Information System after three (3) years from the  
15 date on which the unsubstantiated finding is entered into the system.

16                   (D) An unsubstantiated finding shall not be included in a  
17 petition for emergency custody or an affidavit required under § 9-27-311;

18           (2)(A) True.

19                   (B) A true determination shall be entered when the  
20 allegation is supported by a preponderance of the evidence.

21                   (C) A determination of true but exempted, which means that  
22 the offender's name shall not be placed in the Child Maltreatment Central  
23 Registry, shall be entered if:

24                           (i) A parent practicing his or her religious beliefs  
25 does not, for that reason alone, provide medical treatment for a child, but  
26 in lieu of treatment the child is being furnished with treatment by spiritual  
27 means alone, through prayer, in accordance with a recognized religious method  
28 of healing by an accredited practitioner;

29                           (ii) The offender is an underaged juvenile offender;

30                           (iii) The report was true for neglect as defined  
31 under § 12-18-103(14)(B); or

32                           (iv) The offender is a juvenile less than fourteen  
33 (14) years of age; ~~or~~

34           (3)(A) Inactive.

1 (B) If the investigation cannot be completed, the  
2 investigation shall be determined incomplete and placed in inactive status;  
3 or

4 (4)(A) Not true.

5 (B) A not true determination shall be entered if it is  
6 clear from the evidence that the allegation did not occur.

7 (C)(i) A not true determination shall be removed  
8 immediately from the system.

9 (ii) A not true determination shall not be included  
10 on a child welfare report unless it is included for data purposes relating to  
11 calls made to the Child Abuse Hotline or the investigations of reports of  
12 child maltreatment.

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15 Referred requested by the Arkansas Senate

16 Prepared by: JNL/VJF

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