

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 284 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

SENATE BILL 331

5 By: Senator R. Thompson
6 By: Representative E. Brown
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For An Act To Be Entitled

10 AN ACT TO AMEND GARRETT'S LAW RELATING TO CHILD
11 MALTREATMENT PREVENTION; AND FOR OTHER PURPOSES.
12

Subtitle

14 AN ACT TO AMEND GARRETT'S LAW RELATING
15 TO CHILD MALTREATMENT PREVENTION.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code § 12-12-503(12)(B), regarding the definition
21 of "neglect" as it is used in the Arkansas Child Maltreatment Act, is amended
22 to read as follows:

23 (B)(i) "Neglect" shall also include ~~the causing of a~~
24 ~~newborn child to be born with:~~

25 (a) ~~An~~ Causing a child to be born with an
26 illegal substance present in the child's bodily fluids or bodily substances
27 as a result of the pregnant mother's knowingly using an illegal substance
28 before the birth of the child; or

29 (b) ~~A health problem as a result of the~~
30 ~~mother's use before birth of an illegal substance.~~ At the time of the birth
31 of a child, the presence of an illegal substance in the mother's bodily
32 fluids or bodily substances as a result of the pregnant mother's knowingly
33 using an illegal substance before the birth of the child.

34 (ii) As used in this subdivision (12)(B), "illegal
35 substance" means a drug that is prohibited to be used or possessed without a



1 prescription under the Arkansas Criminal Code, § 5-1-101 et seq.

2 (iii) A test of the child’s bodily fluids or bodily
3 substances may be used as evidence to establish neglect under subdivision
4 (12)(B)(i)(a) of this section.

5 (iv) A test of the mother’s ~~or child’s~~ bodily fluids
6 or bodily substances may be used as evidence to establish neglect under ~~this~~
7 subdivision (12)(B)(i)(b) of this section;

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9 SECTION 2. Arkansas Code § 12-12-507(f)(6), concerning reports of
10 neglect as defined by § 12-12-503(12)(B), is amended to read as follows:

11 (f)(6) The child abuse hotline shall accept a report of neglect as
12 defined under § 12-12-503(12)(B) only if the reporter is one (1) of the
13 following mandatory reporters and the reporter has reasonable cause to
14 suspect that a child has been subjected to neglect as defined under § 12-12-
15 503(12)(B):

- 16 (A) A licensed nurse;
- 17 (B) Any medical personnel who may be engaged in the
18 admission, examination, care, or treatment of persons;
- 19 (C) An osteopath;
- 20 (D) A physician;
- 21 (E) A resident intern; ~~or~~
- 22 (F) A surgeon; or
- 23 (G) A social worker in a hospital.

24
25 SECTION 3. Arkansas Code § 12-12-509 (a)(2)(B), concerning
26 investigations, is amended to read as follows:

27 (a)(2)(B) However, ~~if the notice contains an allegation of severe~~
28 ~~maltreatment, then~~ the investigation shall begin within twenty-four (24)
29 hours if:

- 30 (i) The allegation is severe maltreatment; or
- 31 (ii) The allegation is neglect as defined in § 12-

32 12-503(12)(B).

33
34 SECTION 4. Arkansas Code § 12-12-512(a), concerning child maltreatment
35 investigative determination, is amended to read as follows:

36 (a) Upon completion of the investigation, the Department of Health and

1 Human Services shall determine that the allegations of child maltreatment
 2 are:

3 (1)(A)(i) Unsubstantiated.

4 (ii) This determination shall be entered when the
 5 allegation is not supported by a preponderance of the evidence.

6 (B)(i) An unsubstantiated report shall be confidential and
 7 shall be disclosed only to:

8 (a) The prosecutor;

9 (b) A subject of the report;

10 (c) A court if the information in the record
 11 is necessary for a determination of an issue before the court;

12 (d) Individual federal and state senators and
 13 representatives and their staff members, but no disclosure may be made to any
 14 committee or legislative body;

15 (e) Law enforcement agencies;

16 (f) Any appropriate licensing or registering
 17 authority; and

18 (g) Adult protective services.

19 (ii) Any person or agency to whom disclosure is made
 20 shall not disclose to any other person a report or other information obtained
 21 pursuant to subdivision (a)(1)(B)(i) of this section; or

22 (2)(A)(i) True.

23 (ii)(a) A true determination shall be entered when
 24 the allegation is supported by a preponderance of the evidence.

25 (b) However, for any act or omission of
 26 maltreatment which would be a criminal offense or an act of delinquency, any
 27 defense or affirmative defense that would be applicable to the criminal
 28 offense or delinquent act is also cognizable in a maltreatment proceeding.

29 (B)(i) A determination of true but exempted, which means
 30 that the offender's name shall not be placed in the central registry, shall
 31 be entered if:

32 (a) A parent practicing his or her religious
 33 beliefs does not, for that reason alone, provide medical treatment for a
 34 child, but in lieu of treatment the child is being furnished with treatment
 35 by spiritual means alone, through prayer, in accordance with a recognized
 36 religious method of healing by an accredited practitioner; ~~or~~

1 (b) The offender is an underaged juvenile
2 aggressor; or

3 (c) The report was founded for neglect as
4 defined in § 12-12-503(12)(B).

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6 APPROVED: 3/16/2007
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