

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 347

5 By: Senator Hester
6 By: Representative C. Fite
7

For An Act To Be Entitled

9 AN ACT TO PROMOTE CHILD SAFETY WHILE REDUCING CHILD
10 WELFARE AGENCY INVOLVEMENT IN THE LIVES OF ARKANSAS
11 RESIDENTS; TO AMEND AND UPDATE THE LAW REGARDING
12 DEPENDENCY-NEGLECT AND CHILD MALTREATMENT; TO AMEND
13 AND UPDATE DEFINITIONS UNDER THE ARKANSAS JUVENILE
14 CODE OF 1989 AND THE CHILD MALTREATMENT ACT; TO AMEND
15 INVESTIGATION ACCEPTANCE, ASSIGNMENT, AND NOTICE
16 PROVISIONS UNDER THE CHILD MALTREATMENT ACT; TO AMEND
17 LANGUAGE REGARDING PROTECTION PLANS IN THE CHILD
18 MALTREATMENT ACT; AND FOR OTHER PURPOSES.
19
20

Subtitle

21 TO PROMOTE CHILD SAFETY WHILE REDUCING
22 CHILD WELFARE AGENCY INVOLVEMENT IN THE
23 LIVES OF ARKANSAS RESIDENTS.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code § 9-27-303(37)(A)(iii)-(viii), concerning the
30 definition of "neglect" under the Arkansas Juvenile Code of 1989, are amended
31 to read as follows:

32 (iii) Failure to take reasonable action to protect
33 the juvenile from abandonment, abuse, sexual abuse, sexual exploitation, or
34 ~~neglect, or parental unfitness~~ when the existence of this condition was known
35 or should have been known, and, if for abuse or neglect, the failure to take
36 reasonable action to protect the juvenile causes the juvenile serious bodily



1 injury;

2 (iv) Failure or irremediable inability to provide
 3 for the essential and necessary physical, mental, or emotional needs of the
 4 juvenile, including failure to provide a shelter that does not pose a risk to
 5 the health or safety of the juvenile;

6 (v) Failure to provide for the juvenile's care and
 7 maintenance, proper or necessary support, or medical, surgical, or other
 8 necessary care;

9 (vi) Failure, although able, to assume
 10 responsibility for the care and custody of the juvenile or to participate in
 11 a plan to assume the responsibility;

12 (vii) Failure to appropriately supervise the
 13 juvenile that results in the juvenile's being left alone:

14 (a) At an inappropriate age, creating a
 15 dangerous situation ~~or a situation that puts the juvenile at risk of harm;~~ or

16 (b) In inappropriate circumstances, creating a
 17 dangerous situation ~~or a situation that puts the juvenile at risk of harm;~~

18 (viii) Failure to appropriately supervise the
 19 juvenile that results in the juvenile being placed in+

20 ~~(a) Inappropriate inappropriate circumstances,~~
 21 creating a dangerous situation; or

22 ~~(b) A situation that puts the juvenile at risk~~
 23 ~~of harm; or~~

24
 25 SECTION 2. Arkansas Code § 9-27-303(53)(D), concerning acts that are
 26 considered sexual abuse under the Arkansas Juvenile Code of 1989 when the act
 27 is performed by a caretaker to a person younger than eighteen (18) years of
 28 age, is amended to add an additional subdivision to read as follows:

29 (vii) Solicitation of sexual intercourse, deviant
 30 sexual activity, or sexual contact;

31
 32 SECTION 3. Arkansas Code § 9-27-303(53), concerning the definition of
 33 "sexual abuse" under the Arkansas Juvenile Code of 1989, is amended to add an
 34 additional subdivision to read as follows:

35 (G) Grooming, by a:

36 (i) Person eighteen (18) years of age or older to a

1 person not his or her spouse who is younger than fourteen (14) years of age;
2 or

3 (ii) Caretaker to a person younger than fourteen
4 (14) years of age;

5
6 SECTION 4. Arkansas Code § 9-27-303, concerning the definitions under
7 the Arkansas Juvenile Code of 1989, is amended to add an additional
8 subdivision to read as follows:

9 (67)(A) "Grooming" means to knowingly disseminate to a child
10 thirteen (13) years of age or younger with or without consideration a visual
11 or print medium depicting sexually explicit content with the purpose to
12 entice, induce, or groom the child to engage in the following with a person:

- 13 (i) Sexual intercourse;
- 14 (ii) Sexually explicit conduct; or
- 15 (iii) Deviant sexual activity.

16 (B) As used in subdivision (67)(A) of this section,
17 "disseminate" means to allow to view, expose, furnish, present, sell, or
18 otherwise distribute, including on an electronic device or virtual platform,
19 and is not limited to an act that takes place in the physical presence of a
20 child.

21 (C) It is an affirmative defense to an allegation of
22 grooming that the actor is not more than three (3) years older than the
23 victim.

24
25 SECTION 5. Arkansas Code § 12-18-103(14)(A)(iii)-(viii), concerning
26 the definition of "neglect" under the Child Maltreatment Act, are amended to
27 read as follows:

28 (iii) Failure to take reasonable action to protect
29 the child from abandonment, abuse, sexual abuse, sexual exploitation, or
30 neglect, ~~or parental unfitness~~ when the existence of the condition was known
31 or should have been known, and, if for abuse or neglect, the failure to take
32 reasonable action to protect the juvenile causes the juvenile serious bodily
33 injury;

34 (iv) Failure or irremediable inability to provide
35 for the essential and necessary physical, mental, or emotional needs of the
36 child, including the failure to provide a shelter that does not pose a risk

1 to the health or safety of the child;

2 (v) Failure to provide for the child's care and
3 maintenance, proper or necessary support, or medical, surgical, or other
4 necessary care;

5 (vi) Failure, although able, to assume
6 responsibility for the care and custody of the child or to participate in a
7 plan to assume such responsibility;

8 (vii) Failure to appropriately supervise the child
9 that results in the child's being left alone:

10 (a) At an inappropriate age creating a
11 dangerous situation ~~or a situation that puts the child at risk of harm~~; or

12 (b) In inappropriate circumstances creating a
13 dangerous situation ~~or a situation that puts the child at risk of harm~~;

14 (viii) Failure to appropriately supervise the child
15 that results in the child's being placed in+

16 ~~(a) Inappropriate inappropriate circumstances~~
17 ~~creating a dangerous situation; or~~

18 ~~(b) A situation that puts the child at risk of~~
19 ~~harm;~~

20
21 SECTION 6. Arkansas Code § 12-18-103(20), concerning the definition of
22 "sexual abuse" under the Child Maltreatment Act, is amended to add an
23 additional subdivision to read as follows:

24 (G) Grooming, by a:

25 (i) Person eighteen (18) years of age or older to a
26 person not his or her spouse who is younger than fourteen (14) years of age;
27 or

28 (ii) Caretaker to a person younger than fourteen
29 (14) years of age;

30
31 SECTION 7. Arkansas Code § 12-18-103, concerning the definitions under
32 the Child Maltreatment Act, is amended to add an additional subdivision to
33 read as follows:

34 (32)(A) "Grooming" means to knowingly disseminate to a child
35 thirteen (13) years of age or younger with or without consideration a visual
36 or print medium depicting sexually explicit content with the purpose to

1 entice, induce, or groom the child to engage in the following with a person:

2 (i) Sexual intercourse;

3 (ii) Sexually explicit conduct; or

4 (iii) Deviate sexual activity.

5 (B) As used in subdivision (32)(A) of this section,
 6 "disseminate" means to allow to view, expose, furnish, present, sell, or
 7 otherwise distribute, including on an electronic device or virtual platform,
 8 and is not limited to an act that takes place in the physical presence of a
 9 child.

10 (C) It is an affirmative defense to an allegation of
 11 grooming that the actor is not more than three (3) years older than the
 12 victim.

13
 14 SECTION 8. Arkansas Code § 12-18-304(d), concerning acceptance of a
 15 report of child maltreatment under the Child Maltreatment Act involving a
 16 bruise to a child even if at the time of the report the bruise is not
 17 visible, is repealed.

18 ~~(d)(1) The Child Abuse Hotline shall accept a report of child~~
 19 ~~maltreatment involving a bruise to a child even if at the time of the report~~
 20 ~~the bruise is not visible if the bruising occurred.~~

21 ~~(A) Within the past fourteen (14) days; and~~

22 ~~(B) As a result of child maltreatment as described under~~
 23 ~~subsections (a) (c) of this section.~~

24 ~~(2) However, the report under this subsection shall not be~~
 25 ~~determined to be true unless the existence of the bruise is corroborated.~~

26
 27 SECTION 9. Arkansas Code § 12-18-304, concerning what reports qualify
 28 for acceptance by the Child Abuse Hotline, is amended to add an additional
 29 subsection to read as follows:

30 (h) The Child Abuse Hotline shall accept a report from a medical
 31 provider concerning a child eleven (11) years of age or younger if there is
 32 documented evidence of the child being pregnant or having a sexually
 33 transmitted disease, despite insufficient evidence of child maltreatment.

34
 35 SECTION 10. Arkansas Code § 12-18-506(a), concerning notice of a
 36 report made to the Child Abuse Hotline when the alleged offender is engaged

1 in certain activities or employment, is amended to add an additional
2 subdivision to read as follows:

3 (5) The school the alleged offender is enrolled in, if the
4 alleged offender is eighteen (18) years of age or older.

5
6 SECTION 11. Arkansas Code § 12-18-601(a)(1), concerning procedures
7 followed after the Child Abuse Hotline’s acceptance of a report of child
8 maltreatment under the Child Maltreatment Act, is amended to read as follows:

9 (a)(1) If a report of child maltreatment is accepted by the Child
10 Abuse Hotline, an investigation shall be conducted under procedures
11 established by the Department of Human Services unless the report is accepted
12 for triage under subdivision (a)(2)(C) of this section.

13
14 SECTION 12. Arkansas Code § 12-18-601(a)(2)(B)(ii), concerning the
15 circumstances in which a report of child maltreatment is assigned to the
16 Division of Arkansas State Police under the Child Maltreatment Act, is
17 amended to read as follows:

18 (ii) ~~A person,~~ An agency, corporation, or
19 partnership that provides substitute care for a child who is in the custody
20 of the Department of Human Services; or

21
22 SECTION 13. Arkansas Code § 12-18-601(b)(1)(A), concerning the
23 initiation of an investigation under the Child Maltreatment Act after the
24 assignment of a report of child maltreatment, is amended to read as follows:

25 (b)(1)(A) After the assignment of a report of child maltreatment, the
26 investigating agency shall initiate an investigation as provided under this
27 subchapter or follow triage procedures under subdivision (a)(2)(C) of this
28 section.

29
30 SECTION 14. Arkansas Code § 12-18-601(c)(1), concerning the
31 development and implementation of triage procedures for accepting and
32 documenting reports of child maltreatment of a child not at risk of immediate
33 harm under the Child Maltreatment Act, is amended to read as follows:

34 (c)(1) The Department of Human Services and the Division of Arkansas
35 State Police may develop and implement triage procedures for accepting ~~and,~~
36 documenting, and assigning reports of child maltreatment ~~of a child not at~~

1 ~~risk of imminent harm.~~

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3 SECTION 15. Arkansas Code § 12-18-710(e)(1), concerning the release of
4 information on a true investigative determination pending due process to the
5 alleged offender under the Child Maltreatment Act, is amended to read as
6 follows:

7 (1) The alleged offender and any person, agency, or potential employer
8 with the written consent of the alleged offender;

9

10 SECTION 16. Arkansas Code § 12-18-807(a), concerning the filing of a
11 certified copy of a judicial determination with the Office of Appeals and
12 Hearings, is amended to read as follows:

13 (a) If a court of competent jurisdiction adjudicates a question that
14 is an issue to be determined by the Office of Appeals and Hearings ~~of the~~
15 ~~Department of Human Services~~, the prevailing party to the judicial
16 adjudication who is also a party to the administrative adjudication shall
17 file a ~~certified~~ copy of the judicial adjudication with the office.

18

19 SECTION 17. Arkansas Code § 12-18-1001(d)(1) and (2), concerning the
20 implementation of a protection plan under the Child Maltreatment Act, are
21 amended to read as follows:

22 (d)(1) If the department assesses the health and safety of a child and
23 determines that the child cannot safely remain in the care, custody, or
24 control of the legal parent, guardian, or custodian without the
25 implementation of ~~a protection plan~~ an immediate safety plan, the department
26 may implement ~~a protection plan~~ an immediate safety plan that allows the
27 child to remain in his or her place of residence and includes services to
28 address the safety of the child.

29 (2)(A) If ~~a protection plan~~ an immediate safety plan is
30 implemented under subdivision (d)(1) of this section, then the department
31 shall reassess the health and safety of the child within thirty (30) days of
32 the date on which the ~~protection plan~~ immediate safety plan was implemented.

33 (B) If the department determines that a substantial risk
34 of serious harm to the health and safety of the child remains after a
35 reassessment under subdivision (d)(2)(A) of this section is performed, then
36 the department shall file a petition for dependency-neglect

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APPROVED: 3/21/23