

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**  
4 **By: Senators Walters and Brown**

# **A Bill**

**ACT 804 OF 1995**  
**SENATE BILL 193**

## **For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §9-27-303(4) TO  
9 EXCLUDE THE REASONABLE USE OF CORPORAL PUNISHMENT FROM THE  
10 DEFINITION OF ABUSE; AND FOR OTHER PURPOSES."

### **Subtitle**

13 "TO EXCLUDE THE REASONABLE USE OF  
14 CORPORAL PUNISHMENT FROM THE DEFINITION  
15 OF ABUSE"

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

19 SECTION 1. Arkansas Code Annotated 9-27-303(4) is amended to read as  
20 follows:

21 "(4) (A) Abuse means any of the following acts or omissions by a  
22 parent, guardian, custodian, foster parent, or any person who is entrusted  
23 with the juvenile's care by a parent, guardian, custodian, or foster parent,  
24 including, but not limited to, an agent or employee of a public or private  
25 residential home, child care facility, public or private school, or any person  
26 legally responsible for the juvenile's welfare:

27 (i) Extreme and repeated cruelty to a juvenile; or

28 (ii) Physical, psychological, or sexual abuse of any juvenile  
29 which includes, but is not limited to, intentionally, knowingly, or  
30 negligently and without justifiable cause:

31 (a) Engaging in conduct creating a substantial possibility  
32 of death, permanent or temporary disfigurement, illness, impairment of any  
33 bodily organ, or an observable and substantial impairment in the intellectual  
34 or psychological capacity of the juvenile to function within his normal range  
35 of performance and behavior with due regard to his culture;

36 (b) Any nonaccidental physical injury or mental injury; or

1 (c) Any injury which is at variance with the history given.

2 (B) 'Abuse' shall not include physical discipline of a child when it is  
3 reasonable and moderate and is inflicted by a parent or guardian, for purposes  
4 of restraining or correcting the child.

5 The following actions are not reasonable or moderate when used to  
6 correct or restrain a child:

7 (1) Throwing, kicking, burning, biting, or cutting a child;

8 (2) Striking a child with a closed fist;

9 (3) Shaking a child under age three;

10 (4) Striking or other actions which result in any nonaccidental injury  
11 of a child under the age of 18 months;

12 (5) Interfering with a child's breathing;

13 (6) Threatening a child with a deadly weapon;

14 (7) Striking a child on the face; or

15 (8) Doing any other act that is likely to cause bodily harm greater  
16 than transient pain or minor temporary marks. The age, size, and condition of  
17 the child, and the location of the injury and the frequency or recurrence of  
18 injuries shall be considered when determining whether the bodily harm is  
19 reasonable or moderate. This list is illustrative of unreasonable action and  
20 is not intended to be exclusive.

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22 SECTION 2. Arkansas Code 12-12-503(4) is amended to read as follows:

23 "(4) (A) Abuse means any of the following acts or omissions by a  
24 parent, guardian, custodian, foster parent, or any person who is entrusted  
25 with the juvenile's care by a parent, guardian, custodian, or foster parent,  
26 including, but not limited to, an agent or employee of a public or private  
27 residential home, child care facility, public or private school, or any person  
28 legally responsible for the juvenile's welfare:

29 (i) Extreme and repeated cruelty to a juvenile; or

30 (ii) Physical, psychological, or sexual abuse of any  
31 juvenile which includes, but is not limited to, intentionally, knowingly, or  
32 negligently and without justifiable cause:

33 (a) Engaging in conduct creating a substantial  
34 possibility of death, permanent or temporary disfigurement, illness,  
35 impairment of any bodily organ, or an observable and substantial impairment in

1 the intellectual or psychological capacity of the juvenile to function within  
2 his normal range of performance and behavior with due regard to his culture;

3 (b) Any nonaccidental physical injury or mental  
4 injury; or

5 (c) Any injury which is at variance with the history  
6 given.

7 (B) Abuse shall not include physical discipline of a child when  
8 it is reasonable and moderate and is inflicted by a parent or guardian, for  
9 purposes of restraining or correcting the child.

10 The following actions are not reasonable or moderate when used to  
11 correct or restrain a child:

12 (1) Throwing, kicking, burning, biting, or cutting a child;

13 (2) Striking a child with a closed fist;

14 (3) Shaking a child under age three;

15 (4) Striking or other actions which result in any

16 nonaccidental injury to a child under the age of 18 months;

17 (5) Interfering with a child's breathing;

18 (6) Threatening a child with a deadly weapon;

19 (7) Striking a child on the face; or

20 (8) Doing any other act that is likely to cause and which  
21 does cause bodily harm greater than transient pain or minor temporary marks.

22 The age, size, and condition of the child, and the location of the injury and  
23 the frequency or recurrence of injuries shall be considered when determining  
24 whether the bodily harm is reasonable or moderate. This list is illustrative  
25 of unreasonable action and is not intended to be exclusive."  
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27 SECTION 3. Arkansas Code 12-12-512(a) is amended to read as follows:

28 "(a) Upon completion of the investigation the department shall  
29 determine that the allegations of child maltreatment are:

30 (1) Unfounded: This determination shall be entered when the  
31 allegation is not supported by some credible evidence; a determination of  
32 unfounded (physical discipline) shall be entered if an investigative finding  
33 concludes that the injuries were a result of reasonable and moderate physical  
34 discipline as provided in the definition of abuse;

35 (2) Founded: This determination shall be entered when the

1 allegation is supported by some credible evidence;

2                   (A) A determination of founded shall not be entered when a  
3 parent, practicing his religious beliefs, does not, for that reason alone,  
4 provide medical treatment for a child, but in lieu of such treatment the child  
5 is being furnished with treatment by spiritual means alone, through prayer, in  
6 accordance with a recognized religious method of healing by an accredited  
7 practitioner;

8                   (B) Such prohibition shall not limit the administrative or  
9 judicial authority of the state to ensure that medical services are provided  
10 to the child when his health requires it."

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12           SECTION 4. All provisions of this act of a general and permanent nature  
13 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
14 Revision Commission shall incorporate the same in the Code.

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16           SECTION 5. If any provision of this act or the application thereof to  
17 any person or circumstance is held invalid, such invalidity shall not affect  
18 other provisions or applications of the act which can be given effect without  
19 the invalid provision or application, and to this end the provisions of this  
20 act are declared to be severable.

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22           SECTION 6. All laws and parts of laws in conflict with this act are  
23 hereby repealed.

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*/s/Walters and Brown*

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APPROVED: 3-28-95

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