

**ARKANSAS SENATE**  
86th General Assembly - Regular Session, 2007  
**Amendment Form**

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**Subtitle of Senate Bill No. 303**

"AN ACT TO IMPLEMENT THE FINDINGS OF THE ARKANSAS LEGISLATIVE TASK  
FORCE ON ABUSED AND NEGLECTED CHILDREN AND TO PROTECT CHILD VICTIMS  
OF ABUSE AND NEGLECT THROUGH NEW AND EXPANDED PROGRAMS."

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**Amendment No. 1 to Senate Bill No. 303.**

Amend Senate Bill No. 303 as originally introduced:

Add Senators Madison, Hill, Capps, Salmon, J. Jeffress, G. Jeffress,  
Broadway, Horn, Critcher, Bookout, Wilkins, Glover, Bryles as cosponsors of  
the bill

AND

Page 2, delete lines 9 through 11 and substitute the following:

"(4) Visual, print, or electronic medium that contains a sexual"

AND

Page 2, delete line 19 and substitute the following:

"~~(3)~~(9) Other article designated "contraband" by law, but not  
including visual, print, or electronic medium obtained or possessed by  
licensed medical personnel or a regulated medical facility for the purpose of  
treatment or documentation of injuries to a child."

AND

Page 2, delete lines 31 through 36

AND

Page 3, delete lines 1 through 7 and substitute the following:

"(3) Contraband described in subdivisions (b)(3)-(8) of this section  
shall not be destroyed and is confidential and shall only be available to law  
enforcement officers, prosecuting attorneys, and defense counsel."

SECTION 3. Arkansas Code Title 6, Chapter 61, Subtitle 1 is amended to



add an additional section to read as follows:

6-21-131. Training for mandatory reporters.

For each degree program that is a prerequisite for licensure or certification in a profession in which the professional is a child maltreatment mandated reporter under the Child Maltreatment Act, the Department of Higher Education shall coordinate with all the higher education institutions to ensure that before receiving a degree each graduate receives, including without limitation, training in:

(1) Recognizing the signs and symptoms of child abuse and neglect;

(2) The legal requirements of the Child Maltreatment Act and the duties of mandated reporters under the act; and

(3) Methods for managing disclosures regarding child victims."

AND

Page 3, delete line 14 and substitute the following:

"for Medical Sciences collaborate with each education service cooperative, community health agencies, school"

AND

Page 3, delete line 16 and substitute the following:

"supported, child abuse prevention curriculum to the children of Arkansas in the public schools."

AND

Page 3, delete lines 18 through 36

AND

Page 4, delete lines 1 through 8

AND

Page 4, delete line 16 and substitute the following:

"9-5-102. Statewide purpose.

The statewide purpose of this chapter is to establish a program that provides a comprehensive, multidisciplinary, nonprofit, coordinated response to the investigation of sexual abuse of children and serious physical abuse of children in a facility known as a Children's Advocacy Center.

9-5-103. Definitions."

AND

Page 4, delete lines 18 through 30 and substitute the following:

"(1) "Children's advocacy center" means a not for profit child friendly facility that assists in the investigation of child abuse by providing a location for forensic interviews, and provides services that

include without limitation forensic medical examinations, mental health services and related support services, and training; and  
(2) "Commission" means the Arkansas Child Abuse/Rape/Domestic"

AND

Page 4, delete lines 32 through 36

AND

Page 5, delete line 13 and substitute the following:  
"in a child focused and child friendly facility known as a Children's Advocacy Center."

AND

Page 5, delete line 24 and substitute the following:  
"(2) Promulgate rules and procedures to implement this subchapter and forms for the evaluation"

AND

Page 5, delete lines 26 and 27 and substitute the following:  
"(3) Adopt a uniform system of recordkeeping and reporting to ensure the proper handling of funds by children's advocacy centers and to ensure uniformity and accountability by children's advocacy centers; and"

AND

Page 5, delete lines 29 through 34 and substitute the following:  
"advocacy centers to ensure best practice standards of service delivery."

AND

Page 6, delete line 30 and substitute the following:  
"service providers qualified under this section for children's"

AND

Page 6, delete line 32 and substitute the following:  
"(2) A medical entity selected shall have physicians who:"

AND

Page 7, delete line 7 and substitute the following:  
"(C) Hold a teaching position or a faculty position at a college of medicine and provide"

AND

Page 7, delete lines 20 and 21 and substitute the following:  
"(C) Provide assessment and treatment of abused children"

and adolescents;"

AND

Page 7, delete line 23 and substitute the following:

"and multidisciplinary groups; and

(E) Regularly testify in child sexual abuse cases;"

AND

Page 7, line 24, delete "(E)" and substitute "(F)"

AND

Page 7, line 25, delete "(F)" and substitute "(G)"

AND

Page 7, line 27, delete "(G)" and substitute "(G)"

AND

Page 7, line 29, delete "(H)" and substitute "(I)"

AND

Page 7, delete line 36

AND

Page 8, delete lines 1 through 3 and substitute the following:

"(2) Be a part of a multidisciplinary team;"

AND

Page 8, line 5, delete "basic sound" and substitute "best"

AND

Page 8, delete lines 14 through 19 and substitute the following:

"(7) Provide victim support throughout the"

AND

Page 8, line 21, delete "(10)" and substitute "(8)"

AND

Page 8, line 24, delete "(11)" and substitute "(9)"

AND

Page 8, delete line 25 and substitute the following:  
"and tracking case outcomes."

AND

Page 8, delete line 36 and substitute the following:  
"of fresh injuries of sexual abuse or sexual assault including photo documentation of examination findings"

AND

Page 9 line 1, delete "and photo documentation"

AND

Page 9, line 3, delete "and" from the end of the line

AND

Page 9, delete line 4 and substitute the following:  
"(D) Evaluation for sexually transmitted diseases, pregnancy, and other related sexual abuse and assault;  
(E) Performance of tests and treatment as appropriate; and  
(F) Testimony in court as to the findings."

AND

Page 9, line 15, delete "when necessary"

AND

Page 9, line 21, delete "or the Attorney General"

AND

Page 9, delete lines 26 through 30 and substitute the following:  
"(c) If the commission enters into a contract with a statewide organization under this section, the commission by rule shall adopt standards for eligible local children's advocacy centers."

AND

Page 9, delete lines 33 and 34 and substitute the following:  
"(a) A public entity or a nonprofit entity is eligible for a contract"

AND

Page 10, delete line 3 and substitute the following:  
"(3) Participates on a multidisciplinary team of persons involved in the"

AND

Page 10, delete lines 6 through 9 and substitute the following:

"(4) Has developed a method of statistical information gathering"

AND

Page 10, delete lines 14 and 15 and substitute the following:

"(5) Has a volunteer program;  
(6) Employs an executive director who is answerable to the board"

AND

Page 10, delete lines 17 and 18 and substitute the following:

"salaried employee of any public agency partner;  
(7) Provides for ongoing training for children's advocacy center staff to provide best practices in forensic interviewing and medical and mental examinations to children who are served by children's advocacy centers; and  
(8) Operates under a working protocol that includes, at a"

AND

Page 10, delete line 29 and substitute the following:

"(b)(1) The commission may waive the requirements specified"

AND

Page 10, delete line 35 and substitute the following:

"advocacy center.  
(c) Funds shall be withheld from an established children's advocacy center that no longer meet the standards for funding."

AND

Page 11, delete lines 3 through 15 and substitute the following:

"chapter, a memorandum of understanding regarding agreed participation shall be executed among:

(1) The Division of Children and Family Services of the Department of Health and Human Services;  
(2) The Crimes Against Children Division of the Department of Arkansas State Police;  
(3) Representatives of county and municipal law enforcement agencies that investigate child abuse in the area to be served by the children's advocacy center; and  
(4) The prosecuting attorney."

AND

Page 11, delete line 25 and substitute the following:

"provides best practices in child abuse investigations."

AND

Page 12, delete lines 11 and 12 and substitute the following:

"(A) The type of investigative services and the number of children served by each type of investigative service provided by the children's advocacy centers;

(B) The number, race, age, and gender of the children served each year; and

(C) The outcomes of services to children provided by the centers, including without limitation:

(i) The number of founded maltreatment reports;

(ii) The number of unfounded maltreatment reports and the ratio between founded and unfounded reports for each year; and

(iii) The number of charges, prosecutions, and convictions arising from services provided by the children's advocacy centers each year."

AND

Page 12, delete lines 16 through 18 and substitute the following:

"designee may enter the premises of a children's advocacy center at any time to ensure compliance with this chapter and the rules promulgated by the commission under this chapter."

AND

Page 12, delete lines 29 through 36

AND

Delete Page 13 in its entirety

AND

Page 14, delete lines 1 through 6 and substitute the following:

"receive funding from the commission or its designee under this chapter;

(3) The number of children receiving investigative services by the centers that receive funding from the commission or its designee under this chapter; and

(4) Outcome data provided by the children's advocacy centers.

9-5-115. Immunity from civil liability."

AND

Page 14, delete line 8 and substitute the following:

"employees, and its designees and children's advocacy centers shall be immune from civil liability for"

AND

Page 14, delete lines 11 through 36 entirely

AND

Delete pages 15 through 20 entirely

AND

Page 21, delete lines 1 through 18 and substitute the following:

"SECTION 6. Arkansas Code Title 9, Chapter 9, Subchapter 1 is amended to add an additional section to read as follows:

9-9-104. Foster children's bill of rights.

(a) Every foster child is endowed with the rights inherently belonging to all children.

(b) Special protections, resources, and care should be provided to foster children because of the temporary or permanent separation from parents, specifically:

- (1) To be cherished by a family of his or her own;
- (2) To be nurtured by foster parents who have been selected to meet his or her individual needs;
- (3) To be heard and involved with the decisions of his or her life;
- (4) To have complete information and direct answers to his or her questions about choices, services, and decisions;
- (5) To be informed about and have involvement, when appropriate, with his or her birth family and siblings;
- (6) To have reasonable access to his or her caseworker or a person in the department who can make decisions on his or her behalf;
- (7) To express his or her opinion and have it treated respectfully;
- (8) To request support and services that he or she needs;
- (9) To have individualized care and attention;
- (10) To have ongoing contact with significant people in his or her life, such as teachers, friends, personal support, and relatives;
- (11) To be notified of changes impacting his or her permanence, safety, stability, or well-being;
- (12) To have a stable, appropriate placement if he or she is placed in foster care;
- (13) To receive a free appropriate education, training, and career guidance to prepare him or her for a useful and satisfying life;
- (14) To receive a free appropriate education, training, and career guidance to prepare him or her for a useful and satisfying life;
- (15) To receive preparation for citizenship and parenthood through interaction with foster parents and other adults who are consistent role models;
- (16) To have reasonable access to and be represented by an attorney ad litem in all juvenile judicial proceedings so that his or her best interests are represented;
- (17) To receive quality child welfare services;
- (18) To have a plan for his or her future and the support needed to accomplish it;
- (19) To have a copy of his or her case record upon exiting



foster care;

(20) To be placed in the custody or foster home of relatives, if appropriate, provided the relative caregiver meets all relevant child protection standards; and

(21) To be cared for without regard to race, gender, religion, or disability.

SECTION 7. Arkansas Code Title 9, Chapter 28, Subchapter 4 is amended to add an additional section to read as follows:

9-28-412. Smoking in the presence of foster children.

The Department of Health and Human Services shall not place or permit a child to remain in a foster home if the foster parent or any other member of the family or household smokes or allows an individual to smoke in the presence of a foster child.

SECTION 8. Arkansas Code § 12-8-502(b), concerning the two sections of the Crimes Against Children Division, is amended to read as follows:"

AND

Page 21, delete lines 30 and 31 and substitute the following:

"investigation of all cases assigned to the Investigative Section and refer the case to a local law enforcement agency or a prosecutor for"

AND

Page 22, line 2, delete "SECTION 11." and substitute "SECTION 9."

AND

Page 22, delete line 32 and substitute the following:

"of this section shall be made within forty-eight (48) hours excluding weekends and holidays after a mandatory"

AND

Page 22, delete line 36

AND

Delete Pages 23 through 25 entirely

AND

Page 26, delete lines 1 through 3 and substitute the following:

"SECTION 10. Arkansas Code § 12-12-507(b), concerning reports of suspected abuse or neglect, is amended to read as follows:

~~(b) When any of the following has reasonable cause to suspect that a child has been subjected to child maltreatment or has died as a result of child maltreatment or observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment, he or she shall immediately notify the child abuse hotline:~~

(b)(1) When any of the individual listed in subdivision (b)(4) of this section has reasonable cause to suspect that a child has been subjected to child maltreatment or has died as a result of child maltreatment or observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment, he or she shall immediately notify the child abuse hotline by telephone call, facsimile transmission, or online reporting.

(2) The Child Abuse Hotline shall review the information received under subdivision (b)(1) of this section to determine if the information rises to the minimum standards for investigation under the child Abuse Reporting Act.

(3)(A) Facsimile transmission and online reporting shall only be used in non-emergency situations by an identified reporter who provides the following contact information:

(i) Name and phone number; and

(ii) In the case of online reporting, the email address of the identified reporter.

(B) The hotline shall provide confirmation of the receipt of a facsimile transmission via a return facsimile transmission or via online receipt.

(C) A mandated reporter who wishes to remain anonymous shall make the report through the child abuse hot line toll-free telephone system.

(4) The following individuals are mandated reporters under this subsection:

(1) Any child care worker or foster care worker;"

AND

Page 27, line 8, delete "SECTION 14." and substitute "SECTION 11."

AND

Page 27, line 21, delete "SECTION 15." and substitute "SECTION 12."

AND

Page 27, lines 31 through 36

AND

Delete pages 28 and 29

AND

Page 30, delete lines 1 through 25 and substitute the following:

"SECTION 13. Arkansas Code § 12-12-516(a)(2), concerning protective custody of children, is amended to read as follows:

(2)(A) ~~However,~~ Except as provided in subdivision (a)(2)(B) of"

AND

Page 30, delete lines 31 through 36

AND

Page 31, delete lines 1 through 22 and substitute the following:

"protective custody and the Department of Health and Human Services shall immediately respond and take custody from the sheriff or chief of police.

(C) The Department of Health and Human Services shall establish and maintain an accountability mechanism to ensure the immediate response required under subdivision (a)(2)(B) of this section.

SECTION 14. Arkansas Code § 12-12-516(a), regarding child protective custody, is amended to add an additional subdivision to read as follows:

(3) A sheriff or chief of police may place a child in a Department of Health and Human Services foster home if:

(A) The sheriff or chief of police contacts the on-call worker for the Department of Health and Human Services and does not get a return phone call within thirty (30) minutes;

(B) The sheriff or chief of police contacts the Department of Health and Human Services Emergency Notification Line and does not get a return phone call within fifteen (15) minutes;

(C) The foster parent is personally well-known to the sheriff or the chief of police;

(D) The sheriff or chief of police has:

(i) Determined that the foster parent's home is safe and provides adequate accommodations for the child; and

(ii) Performed a criminal record and child maltreatment check on the foster parent as required under § 9-28-409; and

(E) On the next business day, the sheriff or chief of police immediately notifies the Department of Health and Human Services of the time and date that the child was placed in the foster parent's home."

SECTION 15. Arkansas Code Title 16, Chapter 40, Subchapter 1 is"

AND

Page 31, delete lines 25 through 36

AND

Delete pages 32 and 33

AND

Page 34, delete lines 1 through 20 and substitute the following:

"(a) Nothing in this section shall be deemed to abrogate a defendant's right of cross-examination if notice of intention to cross-examine is given before the date of a hearing or trial pursuant to the applicable rules of criminal procedure or civil procedure.

(b) The testimony of a doctor in child abuse and neglect cases may be compelled by the issuance of a subpoena, in which case the records and reports shall be admissible through the doctor who shall be subject to cross-

examination by the defendant or his or her counsel, either in person or via two-way closed-circuit or satellite-transmitted television under subsection (d) of this section.

(c) The defendant shall give at least ten (10) days' notice before the proceedings that he or she requests the presence for cross-examination of the doctor who performed the child abuse or neglect examination.

(d) The court should allow the prosecutor, agency attorney, or any party to present the testimony of a doctor in a child abuse or neglect case by contemporaneous transmission from via two-way closed-circuit or satellite-transmitted television that shall allow the examination and cross-examination of the doctor to proceed as through the doctor were testifying in the courtroom:

(1) After notice to the defendant;

(2) Upon a showing of good cause and sufficient safeguards to satisfy all state and federal constitutional requirements of oath, confrontation, cross-examination, and observation of the witness's demeanor and testimony by the defendant, the court, and the jury; and

(3) Absent a showing of prejudice by the defendant.

SECTION 16. Arkansas Code Title 16, Chapter 43 is amended to add an additional subchapter to read as follows:

16-43-1201. Findings - Intent.

(a) The General Assembly finds that:

(1) Testifying in court is often stressful for a child;

(2) Numerous studies document that a child has very little, if any, understanding of legal processes;

(3) The confusing, often intimidating environment of a courtroom is exacerbated when a judge or an attorney asks questions the child cannot understand; and

(4) Some attorneys purposely ask questions that will confuse a child witness.

(b) This subchapter is intended to protect children from confusing, even abusive, practices while testifying and is created in order to ensure that testimony is fair and accurate.

16-43-1202. The rights of children when testifying.

When testifying in any civil or criminal proceeding, a child has the following rights:

(1)(A) To understand the oath tht is being administered to him or her.

(B) Any oath that is required of a child shall be administered in a developmentally appropriate manner;

(2)(A) To understand all the questions asked of him or her.

(B) A Judge or an attorneys shall question a child in a developmentally and linguistically appropriate manner.

(C) As a guideline for a child under eight (8) years of age, judges and attorneys should use short sentences, one (1) to two (2) syllable words, simple grammar, and concrete, visualizable words;

(3)(A) To testify at a time of day when he or she is best able to understand the questions and otherwise cope with the stresses of testifying.

(B) The court shall take into consideration nap time,

medications and other factors that influence a child's ability to testify.

(C) As a guideline for a child under five (5) years of age, morning testimony is preferable.

(D) As a guideline for a child of school age, the court should schedule testimony during school hours;

(4)(A) To a comfort item when testifying.

(B) The comfort item may be an inanimate object such as a stuffed toy, a pet, or other animal that may reduce the child's anxiety while testifying;

(5)(A) To the presence of a support person when testifying.

(B) The location of the support person should be dictated by the needs of the child;

(6)(A) To be questioned in a manner that is neither intimidating nor frightening.

(B) An attorney shall not raise his or her voice when questioning a child or presenting argument or otherwise engage in conduct that a child may interpret as an angry confrontation.

(7)(A) To be comfortable when testifying.

(B)(i) The courtroom should be adjusted to meet the child's needs.

(ii) If a child cannot see over the witness box, the child should be given a pillow or allowed to sit in front of the box.

(iii) If a child needs a stool to prevent his or her feet from dangling in the air or any other reasonable accommodation to make him or her feel comfortable, the court shall ensure the courtroom is properly equipped to address the child's need;

(8) To use demonstrative aids, including anatomical dolls, that may facilitate taking the child's testimony; and

(9)(A) If the child has a special need, to any reasonable accommodation that will aid the child while testifying.

(B) The court shall inquire in advance of trial if a child has a visual or hearing impairment or any other need that may require an accommodation.

16-43-1203. Enforcing the rights of children when testifying.

(a) Before taking testimony from a child in any civil or criminal proceeding, the court shall hold a hearing with the attorneys representing the parties and solicit their recommendations on the best means to ensure that the rights set forth in § 16-43-1202 are honored in a court of law.

(b) Following the hearing, the court shall make any necessary findings and issue any orders necessary to ensure that the child's rights are protected while testifying.

SECTION 17. Arkansas Code Title 17, Chapter 1 is amended to add an"

AND

Page 34, delete line 26 and substitute the following:  
"under § 6-13-1027."

AND

Page 34, delete lines 28 and 29 and substitute the following: "SECTION 17."  
"SECTION 18. Arkansas Code Title 20, Chapter 82, Subchapter 2 is amended to add two additional sections to read as follows:"

AND

Page 35, delete line 3 and substitute the following:  
"services of child abuse."

AND

Page 35, delete lines 14 through 31 and substitute the following:  
"approval.

20-82-210. Subcommittee on child abuse and neglect.

(a) The Arkansas Child Abuse/Rape/Domestic Violence Commission shall establish a subcommittee on child abuse and neglect.

(b) The committee shall consist of seven (7) members appointed as follows:

(1) Three (3) members appointed by the commission; and

(4) Four (4) members appointed by the Arkansas Legislative Task Force on Abused and Neglected Children.

(c) The subcommittee shall oversee the operations of the children's advocacy centers with regard to child abuse."

The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator Malone

MGF/CDS - 03-14-2007 08:28

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Secretary