

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

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."

Amendment No. 2 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 1, line 12, delete "REQUIRE THE DESTRUCTION OF" and substitute "ENHANCE
THE CONFIDENTIALITY OF"

AND

Page 1, delete lines 18 through 21 and substitute the following:
"FOSTER PARENTS; TO CREATE CHILD SAFETY CENTERS; TO"

AND

Page 2, delete lines 9 through 19 and substitute the following:

"(4) Visual, print, or electronic medium that contains a sexual
performance of a child prohibited under § 5-27-403;
(5) Item the possession of which is prohibited by § 5-27-602;
(6) Item the production of which is prohibited by § 5-27-603;
(7) Item the production of which is prohibited by § 5-27-605; or
~~(3)~~(8) Other article designated "contraband" by law, but shall
not include a visual, a print, or an electronic medium created, 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 and persons employed by or working with a prosecuting attorney or a defense attorney in his or her official capacity.

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 at an institution of higher learning in this state 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, § 12-1-2-501 et seq., 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, § 12-1-2-501 et seq., 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 16 and substitute the following:

"SECTION 5. Arkansas Code Title 9, Chapter 5 is amended to add an additional chapter to read as follows:

9-5-101. Title.

This chapter shall be known and may be cited as the "Arkansas Child Safety Center Act".

9-5-102. Statewide purpose.

The statewide purpose of this chapter is to establish a program that provides a comprehensive, multidisciplinary, nonprofit, and coordinated response to the investigation of sexual abuse of children and serious physical abuse of children in a child-focused and child-friendly facility known as a child safety center.

9-5-103. Definitions."

AND

Page 4, delete lines 18 through 31 and substitute the following:

"(1) "Child safety 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 forensic medical examinations and forensic mental health examinations; and

(2) "Commission" means the Arkansas Child Abuse/Rape/Domestic Violence Commission."

AND

Page 4, delete lines 32 through 36

AND

Page 5, delete lines 1 through 13

AND

Page 5, line 21, delete "children's advocacy" and substitute "child safety"

AND

Page 5, delete lines 24 through 34 and substitute the following:

"(2) Promulgate rules and procedures to implement this subchapter and forms for the evaluation of each child safety center;

(3) Adopt a uniform system of recordkeeping and reporting to ensure the proper handling of funds by child safety centers and to ensure uniformity and accountability by child safety centers; and

(4) Provide training and technical assistance to child safety centers to ensure best practice standards for forensic interviews and forensic medical examinations."

AND

Page 5, line 35, delete "(b)(1)" and substitute "(b)"

AND

Page 6, delete lines 1 through 5

AND

Page 6, line 21, delete "children's advocacy" and substitute "child safety"

AND

Page 6, delete lines 29 through 31 and substitute the following:
"review, and consultation to medical examiners and mental health examiners qualified under this section for clients of child safety centers."

AND

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

AND

Page 7, line 3, delete "of abused" and substitute "of allegedly abused"

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, line 12, delete "of sexually" and substitute "of allegedly sexually"

AND

Page 7, delete line 13 and substitute the following:
"(F) Regularly testify in cases of alleged child sexual abuse."

AND

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

AND

Page 7, delete line 23 and substitute the following:
"and multidisciplinary teams;"

AND

Page 7, line 28, delete "of sexually" and substitute "of allegedly sexually"

AND

Page 7, delete line 29 and substitute the following:

"(H) Regularly testify in cases of alleged child sexual abuse."

AND

Page 7, line 32, delete "children's advocacy" and substitute "child safety"

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, line 13, delete "children's advocacy" and substitute "child safety"

AND

Page 8, delete lines 14 through 21 and substitute the following:

"(7) Provide team discussion and information sharing regarding"

AND

Page 8, line 22, delete "status, and services" and substitute "and status"

AND

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

AND

Page 8, delete line 25 and substitute the following:

"and tracking case outcomes."

AND

Page 8, line 27 delete "evaluations" and substitute "examinations"

AND

Page 8, delete lines 28 through 30 and substitute the following:

"examinations.

(a)(1) The child safety centers shall provide or provide access to

specialized medical examinations and psychological examinations for their"

AND

Page 8, delete line 36 and substitute the following:

"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 lines 4 through 34 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.

9-5-109. Eligibility for contracts.

(a) A public entity or a nonprofit entity is eligible for a contract"

AND

Page 10, delete lines 3 through 10 and substitute the following:

"(3) Participates on a multidisciplinary team of persons involved in the investigation or prosecution of child abuse cases;
(4) Has developed a method of statistical information gathering on children receiving services through the child safety center and"

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 child safety center staff to provide best practices in forensic interviewing and medical and mental examinations to children who are examined at child safety centers; and
(8) Operates under a working protocol that includes, at a"

AND

Page 10, line 20, delete "children's advocacy" and substitute "child safety"

AND

Page 10, line 22, delete "children's"

AND

Page 10, line 23, delete "advocacy" and substitute "child safety"

AND

Page 10, line 24, delete "children's advocacy" and substitute "child safety"

AND

Page 10, line 27, delete "children's advocacy" and substitute "child safety"

AND

Page 10, delete lines 29 and 30 and substitute the following:

"(b)(1) The commission may waive the requirements specified in subsection (a) of this section if the commission determines"

AND

Page 10, delete lines 34 and 35 and substitute the following:

"section shall be identified in the written contract with the child safety center.

(c) Funds shall be withheld from an established child safety center that no longer meet the standards for funding."

AND

Page 11, line 2, delete "children's advocacy" and substitute "child safety"

AND

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

"chapter, a memorandum of understanding regarding the agreement on the levels of participation of each entity 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 child safety 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 11 line 28, delete "children's"

AND

Page 11, line 29, delete "advocacy" and substitute "child safety"

AND

Page 11, line 32, delete "children's advocacy" and substitute "child safety"

AND

Page 12, line 4, delete "children's advocacy" and substitute "child safety"

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 child safety 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 child safety 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 child safety centers each year."

AND

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

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

AND

Page 12, line 27 delete "children's advocacy" and substitute "child safety"

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 child safety centers that receive funding from the commission or its designee under this chapter; and

(4) Outcome data provided by the child safety centers.

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

AND

Page 14, line 8, delete "employees, and its designees" and substitute "employees in their official capacities"

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 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 unless it is in the child's best interests to be placed in or to remain in the foster home.

SECTION 7. 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 Investigation Section and refer the case to a local law enforcement agency or a prosecuting attorney for"

AND

Page 22, line 2, delete "SECTION 11." and substitute "SECTION 8."

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 9. 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 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 this subchapter.

(3)(A) Facsimile transmission and online reporting may 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)(A)~~ Any child care worker or foster care worker;"

AND

Page 26, line 4, delete "(2)" and substitute "~~(2)~~(B)"

AND

Page 26, line 5, delete "(3)" and substitute "~~(3)~~(C)"

AND

Page 26, line 6, delete "(4)" and substitute "~~(4)~~(D)"

AND

Page 26, line 7, delete "(5)" and substitute "~~(5)~~(E)"

AND

Page 26, line 8, delete "(6)" and substitute "~~(6)~~(F)"

AND

Page 26, line 9, delete "(7)" and substitute "~~(7)~~(G)"

AND

Page 26, line 10, delete "(8)" and substitute "~~(8)~~(H)"

AND

Page 26, line 11, delete "(9)" and substitute "~~(9)~~(I)"

AND

Page 26, line 12, delete "(10)" and substitute "~~(10)~~(J)"

AND

Page 26, line 14, delete "(11)" and substitute "~~(11)~~(K)"

AND

Page 26, line 15, delete "(12)" and substitute "~~(12)~~(L)"

AND

Page 26, line 16, delete "(13)" and substitute "~~(13)~~(M)"

AND

Page 26, line 17, delete "(14)" and substitute "~~(14)~~(N)"

AND

Page 26, line 18, delete "(15)" and substitute "~~(15)~~(O)"

AND

Page 26, line 20, delete "(16)" and substitute "~~(16)~~(P)"

AND

Page 26, line 21, delete "(17)" and substitute "~~(17)~~(Q)"

AND

Page 26, line 22, delete "(18)" and substitute "~~(18)~~(R)"

AND

Page 26, line 23, delete "(19)" and substitute "~~(19)~~(S)"

AND

Page 26, line 24, delete "(20)" and substitute "~~(20)~~(T)"

AND

Page 26, line 25, delete "(21)" and substitute "~~(21)~~(U)"

AND

Page 26, line 26, delete "(22)" and substitute "~~(22)~~(V)"

AND

Page 26, line 27, delete "(23)" and substitute "~~(23)~~(W)"

AND

Page 26, line 28, delete "(24)" and substitute "~~(24)~~(X)"

AND

Page 26, line 29, delete "(25)" and substitute "~~(25)~~(Y)"

AND

Page 26, line 30, delete "(26)" and substitute "~~(26)~~(Z)"

AND

Page 26, line 31, delete "(27)" and substitute "~~(27)~~(AA)"

AND

Page 26, line 33, delete "(28)" and substitute "~~(28)~~(BB)"

AND

Page 26, line 34, delete "(29)" and substitute "~~(29)~~(CC)"

AND

Page 27, line 2, delete "(A)" and substitute "~~(A)~~(i)"

AND

Page 27, line 5, delete "(B)" and substitute "~~(B)~~(ii)"

AND

Page 27, line 8, delete "SECTION 14." and substitute "SECTION 10."

AND

Page 27, line 21, delete "SECTION 15." and substitute "SECTION 11."

AND

Page 27, lines 31 through 36

AND

Delete pages 28 through 33

AND

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

"SECTION 12. 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 13. Arkansas Code Title 16, Chapter 40, Subchapter 1 is amended to add an additional section to read as follows:

16-40-106. Electronic testimony.

(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 physician in child abuse and neglect cases may be compelled by the issuance of a subpoena 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 court may allow the prosecuting attorney, agency attorney, or any party to present the testimony of a physician in a child abuse or neglect case by contemporaneous transmission via two-way closed-circuit or satellite-transmitted television that shall allow the examination and cross-examination of the physician to proceed as though the physician 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, the integrity of the witness, including the absence of other persons from the room in which the witness is testifying, and testimony by the defendant, the court, and the jury;

(3) If the proponent of the testimony makes a showing of absence of prejudice to the defendant; and

(4) The electronic testimony is preserved on video or any other electronic storage medium.

SECTION 14. Arkansas Code Title 16, Chapter 10, Subchapter 1 is amended to add an additional section to read as follows:

16-10-138. Mandatory reporter training.

(a) The Administrative Office of the Courts shall develop a web based curriculum concerning mandatory reporter training that will include without limitation:

(1) The signs and symptoms of abuse;

(2) Training on the specifics that are required to be reported under law and rules; and

(3) The managing of disclosures.

(b) The Department of Health and Human Services shall serve as the host for the web based curriculum developed by the Administrative Office of the Courts.

SECTION 15. Arkansas Code Title 16, Chapter 43 is amended to add an additional subchapter to read as follows:

16-43-1201. Title.

This subchapter shall be known and may be cited as "Safeguards for Abused and Neglected Children Act".

16-43-1202. Safeguards for child victims testifying in judicial and administrative proceedings.

In order to facilitate testimony that is fair and accurate, the following safeguards should be followed:

(1) The prosecuting attorney, victim-witness coordinator, attorney ad litem, or Office of the Chief Counsel attorney shall inform the child about the nature of the judicial proceeding or administrative proceeding;

(2) The prosecuting attorney, victim-witness coordinator, attorney ad litem, or Office of Chief Counsel attorney shall explain:

(A) The oath that will be administered to the child; and

(B) That the judge will determine whether the child is competent to testify;

(3) The prosecuting attorney, victim-witness coordinator, attorney ad litem, or Office of Chief Counsel attorney shall explain to the child that if, the child does not understand a question while testifying in the judicial proceeding or administrative proceeding, the child has a right to say that he or she does not understand the question;

(4) The prosecuting attorney, attorney ad litem, or Office of Chief Counsel attorney may file a motion to have the child testify at a time of day when the child is most alert and best able to understand questions posed in court;

(5) If it is in the child's best interests, the prosecuting attorney, attorney ad litem, or Office of Chief Counsel attorney may file a motion for the child to have a comfort item when testifying in a judicial or administrative proceeding;

(6) If it is in the child's best interests, the prosecuting attorney, attorney ad litem, or Office of Chief Counsel attorney may file a motion for the child to have a support person present when the child testifies in a judicial proceeding or administrative proceeding; and

(7) The prosecuting attorney, attorney ad litem, or Office of Chief Counsel attorney shall consider the effect upon the child when the child is subjected to argumentative or harassing questions and shall make the proper objections when appropriate to ensure the child is not subjected to argumentative or harassing questioning.

SECTION 16. 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. Arkansas Code § 20-82-208. is amended to read as follows:
20-82-208. Community Grants for Advocacy Safety Centers Program.

(a) Findings and Purpose. (1) The General Assembly finds and determines that:

(A) Abused children often have to describe their sexual

or physical abuse several times to different professionals at different locations;

(B) Many child abuse investigations are conducted with little collaboration between the agencies involved in the cases;

(C) Each agency's child abuse professionals are housed in different facilities and, as a result, interface during the investigation and management of cases is limited;

(D) Sexual and physical abuse medical examinations are commonly performed in hospital emergency rooms and other sites that are frightening to children, lack the proper equipment, and often are staffed by physicians uncomfortable with these exams; and

(E) Child ~~advocacy~~ safety centers provide:

- (i) A more child-friendly atmosphere;
- (ii) Reduced trauma to the children and families;
- (iii) Improved investigations and management;
- (iv) More effective utilization of multiagency

information;

- (v) Greater protection of children;
- (vi) Increased prosecution of perpetrators; and
- (vii) Less unnecessary family intervention.

(2) The purpose of this section is to encourage the use of existing child ~~advocacy~~ safety centers and the development of new centers providing the benefits under one (1) roof.

(b) Establishment and Authority. (1) There is established the Community Grants for Child ~~Advocacy~~ Safety Centers Program.

(2) The Arkansas Child Abuse/Rape/Domestic Violence Commission shall advise the Child Abuse/Rape/Domestic Violence Section within the office of the Chancellor of the University of Arkansas for Medical Sciences on the administration and monitoring of this grant program for the operation of existing child ~~advocacy~~ safety centers and the development of new centers in the State of Arkansas.

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, line 7, delete "children's advocacy" and substitute "child safety"

AND

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

20-82-210. Subcommittee on Child Abuse and Neglect – Members – Duty to oversee child safety centers.

(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

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

(c) The subcommittee shall oversee the operations of the child safety 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 - 03-16-2007 14:45

MGF566

Secretary