

**Hall of the House of Representatives**  
83rd General Assembly - Regular Session, 2001  
**Amendment Form**

\*\*\*\*\*

**Subtitle of House Bill No. 1765**

"AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE CONCERNING  
CHILD MALTREATMENT."

\*\*\*\*\*

**Amendment No. 2 to House Bill No. 1765.**

Amend House Bill No. 1765 as originally introduced:

Add Representative Borhauer as a cosponsor of the bill

AND

Page 2, delete lines 29 through 35 and substitute the following:

"(ii) Engaging in conduct creating a realistic and serious threat of death, permanent or temporary disfigurement, or impairment of any bodily organ;

(iii) Injury to a juvenile's intellectual, emotional, or psychological development as evidenced by observable and substantial impairment of the juvenile's ability to function within the juvenile's normal range of performance and behavior;"

AND

Page 3, delete lines 2 through 16 and substitute the following:

"(v) Any nonaccidental physical injury;  
(vi) Any of the following intentional or knowing acts, with physical injury and without justifiable cause:

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

(b) Striking a child with a closed fist;

(c) Shaking a child; or

(d) Striking a child on the face.

(vii) Any of the following intentional or knowing acts, with or without physical injury:

(a) Striking a child age six or younger on the face;

(b) Shaking a child age three or younger; or

(c) Interfering with a child's breathing."

(B)(1) This list is illustrative of unreasonable action and is not intended to be inclusive.

(2) No unreasonable action shall be construed to permit a finding of abuse without having established the elements of abuse."

AND

Page 3, delete lines 17 through 19 and substitute the following:

"(B)C (i) "Abuse shall not include physical discipline of a child when it is reasonable and moderate and is inflicted by a parent or guardian for purposes of restraining or correcting the child. Abuse shall not include when a child suffers transient pain or minor temporary marks as the result of an appropriate restraint, if:

(a) The person exercising the restraint is an employee of an agency licensed or exempted from licensure under the Child Welfare Agency Licensing Act;

(b) The agency has policy and procedures regarding restraints;

(c) No other alternative exists to control the child except for a restraint;

(d) The child is in danger or hurting himself or herself or others;

(e) The person exercising the restraint has been trained in properly restraining children, de-escalation, and conflict resolution techniques; and

(f) The restraint is for a reasonable period of time."

AND

Page 7, delete line 30 and substitute the following:

"buttocks, or anus of a person or the breast of a female; provided that nothing in this section shall permit normal affectionate hugging to be construed as sexual contact."

AND

Page 8, delete lines 28 through 35.

AND

Page 11, delete line 2 and substitute the following:

"Education of the Department of Human Services, by written report ~~oral report~~ only, for"

AND

Page 13, delete lines 12 through 15 and substitute the following:

"(f)(1) The child abuse hotline shall accept a report when the allegations if true would constitute child maltreatment as defined in § 12-12-503 and as long as sufficient identifying information is provided to

identify and locate the child or the family.

(2) The child abuse hotline shall accept a report of physical abuse, if any of the following intentional or knowing acts are alleged to occur, but the report shall not be determined to be true unless the child suffered an injury as the result of the act:

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

(B) Striking a child with a closed fist;

(C) Shaking a child age four or older; or

(D) Striking a child age seven or older on the face.

(3) The child abuse hotline shall accept a report of physical abuse, if any of the following intentional or knowing acts are alleged to occur:

(A) Shaking a child age three or younger;

(B) Striking a child age six or younger on the face; or

(C) Interfering with a child's breathing.

(4)(A) The child abuse hotline shall accept a report of physical abuse if a child suffers an injury as the result of a restraint.

(B) The report shall not be determined to be true if the injury is a minor temporary mark or causes transient pain and was an acceptable restraint as outlined at §12-12-503(2)(C)(i)."

AND

Page 14, delete lines 11 through 17 and substitute the following:

"SECTION 8. Arkansas Code 12-12-511(b)(2), concerning when investigations are closed, is amended to read as follows:

~~(2)(A) If at any time before or during the investigation it appears that the offender is identified and is not a caretaker of the victim child, excluding investigations of sexual abuse, the department shall;~~

~~(i)(A) Refer the matter to the appropriate law enforcement agency;~~

~~(ii)(B) Close its investigation; and~~

~~(iii)(C) Forward a copy of its findings to the appropriate law enforcement agency for that agency's further use in any criminal investigation.~~

~~(B) If the alleged offender is a juvenile, but not a caretaker, law enforcement may refer the matter to the department for investigation."~~

AND

Page 20, delete line 4 and substitute the following:

~~"(1) Any provision of the Arkansas Uniform Rules of Evidence"~~

AND

Page 20, delete lines 10 through 12 and substitute the following:

~~"regarding child abuse, sexual abuse, or neglect of a child."~~

(1)(A) No privilege shall prevent anyone from reporting child maltreatment when the information is obtained from a child.

(B) No privilege shall prevent anyone, except between a lawyer and client or between a minister, including a Christian Science practitioner, and any person confessing to or being counseled by the minister, from testifying concerning child maltreatment when the information is obtained from a child."

AND

Page 21, delete line 11 and 12 and substitute the following:  
"protective custody as outlined in § 12-12-516 or pursuant to the Arkansas Juvenile Code."

AND

Page 21, delete line 14 and substitute the following:  
"shall be placed in a licensed or approved foster home, shelter or facility, or an exempt child welfare agency as defined at § 9-28-402(12)."

AND

Page 21, delete line 30 and substitute the following:  
"outlined in § 12-12-516 or pursuant to the Arkansas"

**The Amendment was read** \_\_\_\_\_  
**By: Representative Dees**  
**MF/RTK** \_\_\_\_\_  
**RTK102** **Chief Clerk**