

**ARKANSAS SENATE**  
85th General Assembly - Regular Session, 2005  
**Amendment Form**

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**Subtitle of Senate Bill No. 114**

"GARRETT'S LAW"

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**Amendment No. 1 to Senate Bill No. 114.**

Amend Senate Bill No. 114 as originally introduced:

Delete the title entirely and substitute:

"AN ACT TO INCLUDE IN THE DEFINITION OF NEGLECT IN THE ARKANSAS CHILD MALTREATMENT ACT AND THE ARKANSAS JUVENILE CODE THE CAUSING OF A NEWBORN CHILD TO BE BORN WITH AN ILLEGAL SUBSTANCE IN HIS OR HER BLOOD OR BORN WITH A HEALTH PROBLEM AS A RESULT OF THE PREGNANT MOTHER'S USE BEFORE BIRTH OF AN ILLEGAL SUBSTANCE; AND FOR OTHER PURPOSES."

AND

Delete the subtitle entirely and substitute:

"GARRETT'S LAW: TO PROVIDE SERVICES TO A NEWBORN CHILD BORN WITH AN ILLEGAL SUBSTANCE PRESENT IN THE CHILD'S BLOOD."

AND

Immediately before the enacting clause, insert the following:

"WHEREAS, the Arkansas Child Maltreatment Act, Arkansas Code § 12-12-501 et seq., is the law that allows doctors and hospital staff to report child abuse and neglect to the Arkansas State Police Child Abuse Hotline; and

WHEREAS, the Arkansas State Police Child Abuse Hotline is a twenty-four-hour toll-free service that triggers the initiation of an investigation of child maltreatment; and

WHEREAS, currently, the Arkansas State Police Child Abuse Hotline will not accept reports related to newborn children being born with an illegal substance present in their blood as a result of the pregnant mother's use before birth of an illegal substance or with a health problem as a result of the pregnant mother's use before birth of an illegal substance; and

WHEREAS, in order for the newborn child to be protected by the Arkansas Child Maltreatment Act and receive services, the Arkansas State Police Child



Abuse Hotline must accept reports of this nature; and

WHEREAS, this act is necessary to clarify the law so that the Arkansas State Police Child Abuse Hotline can accept reports of this nature and so that the newborn children can be provided services to protect their health and safety.

NOW THEREFORE,"

AND

Delete everything after the enacting clause and substitute the following:

"SECTION 1. This act shall be known and may be cited as "Garrett's Law: To Provide Services to a Newborn Child Born with an Illegal Substance Present in the Child's Blood".

SECTION 2. Arkansas Code § 12-12-503(12), regarding the definition of "neglect" under the Arkansas Child Maltreatment Act, is amended to read as follows:

(12)(A) "Neglect" means those acts or omissions of a parent, guardian, custodian, foster parent, or any person who is entrusted with the juvenile's care by a parent, custodian, guardian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person legally responsible under state law for the juvenile's welfare, but excluding the spouse of a minor and the parents of the married minor, which constitute:

~~(A)~~(i) Failure or refusal to prevent the abuse of the juvenile when the person knows or has reasonable cause to know the juvenile is or has been abused;

~~(B)~~(ii) Failure or refusal to provide necessary food, clothing, shelter, and education required by law, excluding the failure to follow an individualized educational program, or medical treatment necessary for the juvenile's well-being, except when the failure or refusal is caused primarily by the financial inability of the person legally responsible and no services for relief have been offered or rejected;

~~(C)~~(iii) Failure to take reasonable action to protect the juvenile from abandonment, abuse, sexual abuse, sexual exploitation, neglect, or parental unfitness when the existence of the condition was known or should have been known;

~~(D)~~(iv) Failure or irremediable inability to provide for the essential and necessary physical, mental, or emotional needs of the juvenile;

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

~~(F)~~(vi) Failure, although able, to assume responsibility for the care and custody of the juvenile or to participate in a plan to assume such responsibility; or

~~(G)~~(vii) Failure to appropriately supervise the juvenile that results in the juvenile's being left alone at an inappropriate age or in inappropriate circumstances that put the juvenile in danger.

(B)(i) "Neglect" means the causing of a newborn child to be born with:

(a) An illegal substance present in his or her blood as a result of the pregnant mother's use before birth of an illegal substance; or

(b) A health problem as a result of the pregnant mother's use before birth of an illegal substance.

(ii) For the purposes of this subdivision (12)(B), "illegal substance" means a drug that is prohibited to be used or possessed without a prescription under the Arkansas Criminal Code, § 5-1-101 et seq.

(iii) A blood test of the child may be used as evidence to establish neglect under this subdivision (12)(B)(i)(a).

(iv) A blood test of the mother or child may be used as evidence to establish neglect under this subdivision (12)(B)(i)(b);

SECTION 3. Arkansas Code § 9-27-303(35), regarding the definition of "neglect" in the Arkansas Juvenile Code of 1989, is amended to read as follows:

(35)(A) "Neglect" means those acts or omissions of a parent, guardian, custodian, foster parent, or any person who is entrusted with the juvenile's care by a parent, custodian, guardian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person legally responsible under state law for the juvenile's welfare, which constitute:

~~(A)(i)~~ Failure or refusal to prevent the abuse of the juvenile when the person knows or has reasonable cause to know the juvenile is or has been abused;

~~(B)(ii)~~ Failure or refusal to provide the necessary food, clothing, shelter, and education required by law, excluding failure to follow an individualized education program, or medical treatment necessary for the juvenile's well-being, except when the failure or refusal is caused primarily by the financial inability of the person legally responsible and no services for relief have been offered or rejected;

~~(C)(iii)~~ Failure to take reasonable action to protect the juvenile from abandonment, abuse, sexual abuse, sexual exploitation, neglect, or parental unfitness where the existence of this condition was known or should have been known;

~~(D)(iv)~~ Failure or irremediable inability to provide for the essential and necessary physical, mental, or emotional needs of the juvenile;

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

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

~~(G)(vii)~~ Failure to appropriately supervise the juvenile which results in the juvenile's being left alone at an inappropriate age or in inappropriate circumstances which put the juvenile in danger+.

(B)(i) "Neglect" means the causing of a newborn child to be born with:

(a) An illegal substance present in his or her blood as a result of the pregnant mother's use before birth of an illegal substance; or

(b) A health problem as a result of the pregnant mother's use before birth of an illegal substance.

(ii) For the purposes of this subdivision (35)(B), "illegal substance" means a drug that is prohibited to be used or possessed without a prescription under the Arkansas Criminal Code, § 5-1-101 et seq.

(iii) A blood test of the child may be used as evidence to establish neglect under this subdivision (35)(B)(i)(a);

(iv) A blood test of the mother or child may be used as evidence to establish neglect under subdivision (35)(B)(i)(b) of this section;

SECTION 4. Arkansas Code Title 12, Chapter 8, Subchapter 5 is amended to add an additional section to read as follows:

12-8-509. Additional reporting required.

(a) The state agency or entity responsible for administering the twenty-four-hour toll-free child abuse hotline or investigating incidents of neglect under § 12-12-503(12)(B) shall:

(1) Develop and maintain statewide statistics of the incidents of neglect reported or investigated under § 12-12-503(12)(B); and

(2)(A) Annually report no later than October 1 to the following:

(i) The Senate Interim Committee on Children and Youth;

(ii) The House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs;

(iii) The Senate Interim Committee on Public Health, Welfare, and Labor; and

(iv) The House Interim Committee on Public Health, Welfare, and Labor.

(B) The annual report under this section shall include all findings and statistics regarding incidents of neglect reported or investigated under § 12-12-503(12)(B), including, but not limited to, the following information:

(i) The age of the mother;

(ii) The type of illegal substance to which the newborn child was exposed prenatally;

(iii) The estimated gestational age of the newborn child at the time of birth; and

(iv) The newborn child's health problems.

(b) If more than one (1) state agency or entity is responsible for administering the twenty-four-hour toll-free child abuse hotline or investigating incidents of neglect under § 12-12-503(12)(B), then the reporting under this section shall be a collaborative effort for all state agencies or entities involved.

SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that, currently, the Arkansas State Police Child Abuse Hotline will not accept reports related to newborn children being born with an illegal substance present in their blood as a result of the pregnant mother's use before birth of an illegal substance or

with a health problem as a result of the pregnant mother's use before birth of an illegal substance; that in order for the newborn child to be protected by the Arkansas Child Maltreatment Act and receive services, the Arkansas State Police Child Abuse Hotline must accept reports of this nature; and that this act is immediately necessary to clarify the law so that the Arkansas State Police Child Abuse Hotline can accept reports of this nature and so that the newborn children can be provided services to protect their health and safety. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

AND

If appropriate, renumber the remaining sections of the bill

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

By: Senator Wooldridge

JSE/VLH - 02-07-2005 09:35

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Secretary