

INTERIM STUDY PROPOSAL 2017-065

1
2 State of Arkansas
3 91st General Assembly
4 Regular Session, 2017

As Engrossed: S3/21/17

A Bill

SENATE BILL 307

5
6 By: Senator A. Clark
7 By: Representative Hammer

8 Filed with: Senate Committee on Judiciary
9 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

10
11 AN ACT CONCERNING DRUG TESTING UNDER THE CHILD
12 MALTREATMENT ACT; CONCERNING CHILD MALTREATMENT
13 INVESTIGATION REPORTS; TO AMEND THE DEFINITION OF
14 "NEGLECT"; TO AMEND THE LAW CONCERNING INVESTIGATIVE
15 DETERMINATIONS; AND FOR OTHER PURPOSES.
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Subtitle

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19 CONCERNING DRUG TESTING UNDER THE CHILD
20 MALTREATMENT ACT; CONCERNING CHILD
21 MALTREATMENT INVESTIGATION REPORTS; TO
22 AMEND THE DEFINITION OF "NEGLECT"; AND TO
23 AMEND THE LAW CONCERNING INVESTIGATIVE
24 DETERMINATIONS.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. Arkansas Code § 12-18-103(14), concerning the definition of
30 "neglect" under the Child Maltreatment Act, is amended to add an additional
31 subdivision to read as follows:

32 (C) "Neglect" does not include the:

33 (i) Refusal of a parent, guardian, custodian, or foster parent
34 to consent or submit to a drug test that is not ordered by a court; or

35 (ii) Admission of past drug use by a parent, guardian,
36 custodian, foster parent;

1
2 SECTION 2. Arkansas Code Title 12, Chapter 18, Subchapter 6, is
3 amended to add an additional section to read as follows:

4 12-18-624. Drug testing notice.

5 (a) The Department of Human Services shall not drug test an alleged
6 offender during a child maltreatment investigation unless the:

7 (1) Drug test is ordered by the court under § 9-13-109; or

8 (2) Department obtains the alleged offender's written consent to
9 submit to a drug test.

10 (b)(1) The department shall provide a form for the written consent to
11 submit to a drug test to the alleged offender from whom a drug test is
12 sought.

13 (2)(A) The department may petition the court for an order
14 requiring the alleged offender to submit to a drug test if the alleged
15 offender does not sign the form provided to him or her under subdivision
16 (b)(1) of this section.

17 (B) A petition for a court order under subdivision
18 (b)(2)(A) of this section shall state the reasons for the department's need
19 to drug test the alleged offender.

20 (c)(1) An alleged offender's refusal to consent to the department's
21 request for a drug test under this section is an insufficient basis for the
22 removal of a child from the custody of the alleged offender.

23 (2) An alleged offender's refusal to consent or submit to a drug
24 test that is not ordered by the court does not prohibit the removal of a
25 child from the custody of the alleged offender on another basis that
26 constitutes an immediate threat of harm to the child.

27 (d) An alleged offender's failure to submit to a drug test ordered by
28 the court is a sufficient basis for the removal of a child from the custody
29 of the alleged offender.

30 (e) The result of a drug test performed under this section is
31 inadmissible in court if the department fails to follow the department's
32 policy in the administration of the drug test.

33
34 SECTION 3. Arkansas Code § 12-18-701(f), concerning the admissibility
35 of a child maltreatment investigation report in a proceeding related to child
36 maltreatment, is repealed.

1 ~~(f) The report, exclusive of information identifying the person making~~
2 ~~the notification, shall be admissible in evidence in any proceeding related~~
3 ~~to child maltreatment.~~

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5 SECTION 4. Arkansas Code § 12-18-702 is amended to read as follows:
6 12-18-702. Investigative determination.

7 Upon completion of an investigation under this chapter, the Department
8 of Human Services and the Department of Arkansas State Police shall determine
9 whether the allegations of child maltreatment are:

10 (1)(A) Unsubstantiated.

11 (B) An unsubstantiated determination shall be entered when
12 *the allegation is not supported by a preponderance of the evidence.*

13 (C) An unsubstantiated determination shall not be included
14 in a petition for emergency custody or an affidavit required under § 9-27-
15 311;

16 (2)(A) True.

17 (B) A true determination shall be entered when the
18 allegation is supported by a preponderance of the evidence.

19 (C) A determination of true but exempted, which means that
20 the offender's name shall not be placed in the Child Maltreatment Central
21 Registry, shall be entered if:

22 (i) A parent practicing his or her religious beliefs
23 does not, for that reason alone, provide medical treatment for a child, but
24 in lieu of treatment the child is being furnished with treatment by spiritual
25 means alone, through prayer, in accordance with a recognized religious method
26 of healing by an accredited practitioner;

27 (ii) The offender is an underaged juvenile offender;

28 (iii) The report was true for neglect as defined
29 under § 12-18-103(14)(B); or

30 (iv) The offender is a juvenile less than fourteen
31 (14) years of age; ~~or~~

32 (3)(A) Inactive.

33 (B) If the investigation cannot be completed, the
34 investigation shall be determined incomplete and placed in inactive status;
35 or

36 (4)(A) Not true.

