

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995

A Bill

SENATE BILL 193

4 By: Senators Walters and Brown
5
6

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §9-27-303(4) TO
9 EXCLUDE THE REASONABLE USE OF CORPORAL PUNISHMENT FROM THE
10 DEFINITION OF ABUSE; AND FOR OTHER PURPOSES."

11

Subtitle

12
13 "TO EXCLUDE THE REASONABLE USE OF
14 CORPORAL PUNISHMENT FROM THE DEFINITION
15 OF ABUSE"
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code Annotated 9-27-303(4) is amended to read as
20 follows:

21 "(4)(A) Abuse means any of the following acts or omissions by a
22 parent, guardian, custodian, foster parent, or any person who is entrusted
23 with the juvenile's care by a parent, guardian, custodian, or foster parent,
24 including, but not limited to, an agent or employee of a public or private
25 residential home, child care facility, public or private school, or any
26 person legally responsible for the juvenile's welfare:

27 (i) Extreme and repeated cruelty to a juvenile; or

28 (ii) Physical, psychological, or sexual abuse of any juvenile
29 which includes, but is not limited to, intentionally, knowingly, or
30 negligently and without justifiable cause:

31 (a) Engaging in conduct creating a substantial possibility
32 of death, permanent or temporary disfigurement, illness, impairment of any
33 bodily organ, or an observable and substantial impairment in the intellectual
34 or psychological capacity of the juvenile to function within his normal range
35 of performance and behavior with due regard to his culture;

1 (b) Any nonaccidental physical injury or mental injury; or
2 (c) Any injury which is at variance with the history
3 given.

4 (B) 'Abuse' shall not include physical discipline of a child when it
5 is reasonable and moderate and is inflicted by a parent or guardian, for
6 purposes of restraining or correcting the child.

7 The following actions are not reasonable or moderate when used to
8 correct or restrain a child:

- 9 (1) Throwing, kicking, burning, biting, or cutting a child;
- 10 (2) Striking a child with a closed fist;
- 11 (3) Shaking a child under age three;
- 12 (4) Striking or other actions which result in any nonaccidental injury
13 of a child under the age of 18 months;
- 14 (5) Interfering with a child's breathing;
- 15 (6) Threatening a child with a deadly weapon;
- 16 (7) Striking a child on the face; or
- 17 (8) Doing any other act that is likely to cause bodily harm greater
18 than transient pain or minor temporary marks. The age, size, and condition
19 of the child, and the location of the injury and the frequency or recurrence
20 of injuries shall be considered when determining whether the bodily harm is
21 reasonable or moderate. This list is illustrative of unreasonable action and
22 is not intended to be exclusive.

23

24 SECTION 2. Arkansas Code 12-12-503(4) is amended to read as follows:

25 "(4)(A) Abuse means any of the following acts or omissions by a
26 parent, guardian, custodian, foster parent, or any person who is entrusted
27 with the juvenile's care by a parent, guardian, custodian, or foster parent,
28 including, but not limited to, an agent or employee of a public or private
29 residential home, child care facility, public or private school, or any
30 person legally responsible for the juvenile's welfare:

- 31 (i) Extreme and repeated cruelty to a juvenile; or
- 32 (ii) Physical, psychological, or sexual abuse of any
33 juvenile which includes, but is not limited to, intentionally, knowingly, or
34 negligently and without justifiable cause:

35 (a) Engaging in conduct creating a substantial

1 possibility of death, permanent or temporary disfigurement, illness,
2 impairment of any bodily organ, or an observable and substantial impairment
3 in the intellectual or psychological capacity of the juvenile to function
4 within his normal range of performance and behavior with due regard to his
5 culture;

6 (b) Any nonaccidental physical injury or mental
7 injury; or

8 (c) Any injury which is at variance with the history
9 given.

10 (B) Abuse shall not include physical discipline of a child
11 when it is reasonable and moderate and is inflicted by a parent or guardian,
12 for purposes of restraining or correcting the child.

13 The following actions are not reasonable or moderate when used to
14 correct or restrain a child:

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

17 (2) Striking a child with a closed fist;

18 (3) Shaking a child under age three;

19 (4) Striking or other actions which result in any
20 nonaccidental injury to a child under the age of 18 months;

21 (5) Interfering with a child's breathing;

22 (6) Threatening a child with a deadly weapon;

23 (7) Striking a child on the face; or

24 (8) Doing any other act that is likely to cause and which
25 does cause bodily harm greater than transient pain or minor temporary marks.

26 The age, size, and condition of the child, and the location of the injury
27 and the frequency or recurrence of injuries shall be considered when
28 determining whether the bodily harm is reasonable or moderate. This list is
29 illustrative of unreasonable action and is not intended to be exclusive."
30

31 SECTION 3. Arkansas Code 12-12-512(a) is amended to read as follows:

32 "(a) Upon completion of the investigation the department shall
33 determine that the allegations of child maltreatment are:

34 (1) *Unfounded*: This determination shall be entered when the
35 allegation is not supported by some credible evidence; a determination of

1 unfounded (physical discipline) shall be entered if an investigative finding
2 concludes that the injuries were a result of reasonable and moderate physical
3 discipline as provided in the definition of abuse;

4 (2) *Founded: This determination shall be entered when the*
5 *allegation is supported by some credible evidence;*

6 (A) *A determination of founded shall not be entered when a*
7 *parent, practicing his religious beliefs, does not, for that reason alone,*
8 *provide medical treatment for a child, but in lieu of such treatment the*
9 *child is being furnished with treatment by spiritual means alone, through*
10 *prayer, in accordance with a recognized religious method of healing by an*
11 *accredited practitioner;*

12 (B) *Such prohibition shall not limit the administrative or*
13 *judicial authority of the state to ensure that medical services are provided*
14 *to the child when his health requires it."*

15

16 SECTION 4. All provisions of this act of a general and permanent
17 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
18 Code Revision Commission shall incorporate the same in the Code.

19

20 SECTION 5. If any provision of this act or the application thereof to
21 any person or circumstance is held invalid, such invalidity shall not affect
22 other provisions or applications of the act which can be given effect without
23 the invalid provision or application, and to this end the provisions of this
24 act are declared to be severable.

25

26 SECTION 6. All laws and parts of laws in conflict with this act are
27 hereby repealed.

28

/s/Walters and Brown

29

30

31

32

33

34

35

- 1
- 2
- 3
- 4
- 5
- 6