

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

As Engrossed: H3/24/05

# A Bill

HOUSE BILL 2432

5 By: Representative Schulte  
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## For An Act To Be Entitled

9 AN ACT TO PROVIDE JUDICIAL RELIEF TO A PERSON WHO  
10 CAN ESTABLISH THAT AN ALLEGATION OF CHILD  
11 MALTREATMENT IS NOT SUPPORTED BY THE  
12 PREPONDERANCE OF THE EVIDENCE; AND FOR OTHER  
13 PURPOSES.  
14

## Subtitle

15 TO PROVIDE JUDICIAL RELIEF TO A PERSON  
16 WHO CAN ESTABLISH THAT AN ALLEGATION OF  
17 CHILD MALTREATMENT IS NOT SUPPORTED BY  
18 THE PREPONDERANCE OF THE EVIDENCE.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code Title 12, Chapter 12, Subchapter 3 is amended  
25 to add an additional section to read as follows:

26 12-12-520. Judicial relief.

27 (a) In addition to other relief provided under state and federal law,  
28 a person may petition the circuit court of the county in which the person  
29 resides, the county in which the child maltreatment investigation was  
30 initiated, or the Pulaski County Circuit Court for a de novo review of the  
31 determinations made by the Department of Human Services if:

32 (1) The Department of Human Services has made a true finding of  
33 child maltreatment against the person under this subchapter; or

34 (2) If a criminal investigation has been initiated, then:

35 (A) The person has not been convicted of, pleaded guilty  
36 to, or pleaded nolo contendere to an offense related to a true finding of



1 child maltreatment against the person under this subchapter and that true  
2 finding forms the basis of the cause of action under this section; and

3 (B) The criminal investigation has been pending for twelve  
4 (12) months and has not reached a conclusion related to a true finding of  
5 child maltreatment that forms the basis of the cause of action under this  
6 section.

7 (b) An action under this section shall be commenced within one (1)  
8 year after the following, whichever date is latest:

9 (1) The date that the person was notified of the true finding of  
10 child maltreatment under § 12-12-512(c);

11 (2) The date that the administrative hearing process under § 12-  
12 12-512 is completed;

13 (3) The date that the criminal investigation is concluded; or

14 (4) Twelve (12) months after the criminal investigation was  
15 initiated without reaching a conclusion.

16 (c) To establish a claim under this section, the petitioner shall  
17 establish:

18 (1) That the allegation of child maltreatment is not supported  
19 by the preponderance of the evidence; and

20 (2) Other relief as provided under subsection (d) of this  
21 section if applicable.

22 (d) A petitioner under this section may seek any of the following:

23 (1) An order requiring the Department of Human Services to:

24 (A) Remove the true finding of child maltreatment against  
25 the petitioner from the Child Maltreatment Central Registry; or

26 (B) Change the determination of the true finding of child  
27 maltreatment against the petitioner to an unsubstantiated finding against the  
28 petitioner in the Child Maltreatment Central Registry;

29 (2) An order requiring the Department of Human Services or the  
30 State of Arkansas to relinquish custody of the petitioner's child;

31 (3) An order that returns custody of the petitioner's child to  
32 the petitioner; or

33 (4) An order that requires the Department of Human Services or  
34 other entity that conducted or participated in the child maltreatment  
35 investigation to destroy all documentation related to the report of child  
36 maltreatment against the petitioner.

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