

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

A Bill

SENATE BILL 114

4
5 By: Senator Wooldridge
6
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For An Act To Be Entitled

8
9 AN ACT TO INCLUDE IN THE DEFINITION OF NEGLECT IN
10 THE ARKANSAS CHILD MALTREATMENT ACT AND THE
11 ARKANSAS JUVENILE CODE THE CAUSING OF A NEWBORN
12 CHILD TO BE BORN ADDICTED TO AN ILLEGAL SUBSTANCE
13 OR BORN WITH A LIFE-THREATENING HEALTH PROBLEM AS
14 A RESULT OF THE PREGNANT MOTHER'S USE BEFORE
15 BIRTH OF AN ILLEGAL SUBSTANCE; AND FOR OTHER
16 PURPOSES.
17

Subtitle

18
19 GARRETT'S LAW
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. This act shall be known and may be cited as "Garrett's
25 Law".
26

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

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



1 constitute:

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

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

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

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

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

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

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

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

29 (a) Addicted to an illegal substance as a
30 result of the pregnant mother's use before birth of an illegal substance; or

31 (b) With a life-threatening health problem as
32 a result of the pregnant mother's use before birth of an illegal substance.

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

36 (iii) A blood test of the mother or child may be

1 used as evidence to establish neglect under this subdivision (12)(B);
 2

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

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

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

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

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

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

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

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

35 ~~(G)(vii)~~ Failure to appropriately supervise the
 36 juvenile which results in the juvenile's being left alone at an inappropriate

1 age or in inappropriate circumstances which put the juvenile in danger.

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

4 (a) Addicted to an illegal substance as a
5 result of the pregnant mother's use before birth of an illegal substance; or

6 (b) With a life-threatening health problem as
7 a result of the pregnant mother's use before birth of an illegal substance.

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

11 (iii) A blood test of the mother or child may be
12 used as evidence to establish neglect under this subdivision (35)(B);

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