

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: S2/8/05 S2/9/05

A Bill

SENATE BILL 114

5 By: Senator Wooldridge
6
7

For An Act To Be Entitled

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 WITH AN ILLEGAL SUBSTANCE IN HIS*
13 *OR HER SYSTEM OR BORN WITH A HEALTH PROBLEM AS A*
14 *RESULT OF THE PREGNANT MOTHER'S USE BEFORE BIRTH*
15 *OF AN ILLEGAL SUBSTANCE; AND FOR OTHER PURPOSES.*

Subtitle

17
18 *GARRETT'S LAW: TO PROVIDE SERVICES TO A*
19 *NEWBORN CHILD BORN WITH AN ILLEGAL*
20 *SUBSTANCE PRESENT IN THE CHILD'S SYSTEM.*

21
22
23 *WHEREAS, the Arkansas Child Maltreatment Act, Arkansas Code § 12-12-501*
24 *et seq., is the law that allows doctors and hospital staff to report child*
25 *abuse and neglect to the Arkansas State Police Child Abuse Hotline; and*
26

27 *WHEREAS, the Arkansas State Police Child Abuse Hotline is a twenty-*
28 *four-hour toll-free service that triggers the initiation of an investigation*
29 *of child maltreatment; and*
30

31 *WHEREAS, currently, the Arkansas State Police Child Abuse Hotline will*
32 *not accept reports related to newborn children being born with an illegal*
33 *substance present in their system as a result of the pregnant mother's use*
34 *before birth of an illegal substance or with a health problem as a result of*
35 *the pregnant mother's use before birth of an illegal substance; and*
36



1 WHEREAS, in order for the newborn child to be protected by the Arkansas
2 Child Maltreatment Act and receive services, the Arkansas State Police Child
3 Abuse Hotline must accept reports of this nature; and
4

5 WHEREAS, this act is necessary to clarify the law so that the Arkansas
6 State Police Child Abuse Hotline can accept reports of this nature and so
7 that the newborn children can be provided services to protect their health
8 and safety.
9

10 NOW THEREFORE,

11
12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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14 SECTION 1. This act shall be known and may be cited as "Garrett's Law:
15 To Provide Services to a Newborn Child Born with an Illegal Substance Present
16 in the Child's System".
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18 SECTION 2. Arkansas Code § 12-12-503(12), regarding the definition of
19 "neglect" under the Arkansas Child Maltreatment Act, is amended to read as
20 follows:

21 (12)(A) "Neglect" means those acts or omissions of a parent,
22 guardian, custodian, foster parent, or any person who is entrusted with the
23 juvenile's care by a parent, custodian, guardian, 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 under state law for the juvenile's welfare, but
27 excluding the spouse of a minor and the parents of the married minor, which
28 constitute:

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

32 ~~(B)~~(ii) Failure or refusal to provide necessary
33 food, clothing, shelter, and education required by law, excluding the failure
34 to follow an individualized educational program, or medical treatment
35 necessary for the juvenile's well-being, except when the failure or refusal
36 is caused primarily by the financial inability of the person legally

1 responsible and no services for relief have been offered or rejected;

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

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

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

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

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

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

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

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

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

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

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

33
34 SECTION 3. Arkansas Code § 9-27-303(35), regarding the definition of
35 "neglect" in the Arkansas Juvenile Code of 1989, is amended to read as
36 follows:

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

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

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

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

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

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

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

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

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

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

1 illegal substance; or

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

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

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

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

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

15 12-8-509. Additional reporting required.

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

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

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

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

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

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

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

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

34 (i) The age of the mother;

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

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

3 (iv) The newborn child's health problems.

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

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10 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the
11 General Assembly of the State of Arkansas that, currently, the Arkansas State
12 Police Child Abuse Hotline will not accept reports related to newborn
13 children being born with an illegal substance present in their blood or urine
14 as a result of the pregnant mother's use before birth of an illegal substance
15 or with a health problem as a result of the pregnant mother's use before
16 birth of an illegal substance; that in order for the newborn child to be
17 protected by the Arkansas Child Maltreatment Act and receive services, the
18 Arkansas State Police Child Abuse Hotline must accept reports of this nature;
19 and that this act is immediately necessary to clarify the law so that the
20 Arkansas State Police Child Abuse Hotline can accept reports of this nature
21 and so that the newborn children can be provided services to protect their
22 health and safety. Therefore, an emergency is declared to exist and this act
23 being immediately necessary for the preservation of the public peace, health,
24 and safety shall become effective on:

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

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

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

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32 /s/ Wooldridge
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