

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 86th General Assembly
3 Regular Session, 2007

A Bill

SENATE BILL 303

4
5 By: Senator Malone
6
7

For An Act To Be Entitled

9 AN ACT TO IMPLEMENT THE FINDINGS OF THE ARKANSAS
10 LEGISLATIVE TASK FORCE ON ABUSED AND NEGLECTED
11 CHILDREN; TO PROTECT CHILD VICTIMS OF ABUSE AND
12 NEGLECT; TO REQUIRE THE DESTRUCTION OF ITEMS THAT
13 DEPICT THE SEXUAL EXPLOITATION OF A CHILD BY
14 CLASSIFYING THEM AS CONTRABAND; TO REQUIRE THE
15 DEPARTMENT OF ARKANSAS STATE POLICE TO
16 INVESTIGATE ALL CASES OF SEVERE CHILD
17 MALTREATMENT; TO REQUIRE UNIFORM TRAINING FOR
18 FOSTER PARENTS; TO AMEND THE ARKANSAS LEGISLATIVE
19 TASK FORCE ON ABUSED AND NEGLECTED CHILDREN
20 REGARDING THE MEMBERSHIP, ORGANIZATION, AND
21 EXPENSES TO CREATE CHILD ADVOCACY CENTERS; TO
22 IMPROVE OPERATIONS OF THE ABUSE AND NEGLECT HOT
23 LINE; TO IMPROVE ENFORCEMENT OF CHILD ABUSE AND
24 NEGLECT LAWS; AND FOR OTHER PURPOSES.

Subtitle

25
26
27 AN ACT TO IMPLEMENT THE FINDINGS OF THE
28 ARKANSAS LEGISLATIVE TASK FORCE ON
29 ABUSED AND NEGLECTED CHILDREN AND TO
30 PROTECT CHILD VICTIMS OF ABUSE AND
31 NEGLECT THROUGH NEW AND EXPANDED
32 PROGRAMS.
33
34

35 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
36



1 SECTION 1. Arkansas Code § 5-5-101(b), concerning the disposition of
 2 contraband and seized property, is amended to read as follows:

3 (b) "Contraband" includes any:

4 (1) Article possessed under a circumstance prohibited by law;

5 (2) Weapon or other instrumentality used in the commission or
 6 attempted commission of a felony; ~~and~~

7 (3) Visual, print, or electronic medium that depicts sexually
 8 explicit conduct involving a child prohibited under § 5-27-304;

9 (4) Visual, print, or electronic medium that depicts a sexual
 10 organ of a child;

11 (5) Visual, print, or electronic medium that contains a sexual
 12 performance of a child prohibited under § 5-27-403;

13 (6) Item that depicts sexually explicit conduct of a child
 14 prohibited under § 5-27-602;

15 (7) Item that is produced that depicts computer child
 16 pornography prohibited under § 5-27-603;

17 (8) Item that is produced that depicts computer exploitation of
 18 a child prohibited under § 5-27-605; or

19 ~~(3)-(9)~~ (9) Other article designated "contraband" by law.

20
 21 SECTION 2. Arkansas Code § 5-5-101(c), regarding the disposition of
 22 contraband and seized property, is amended to read as follows:

23 (c)(1) Contraband shall be destroyed.

24 (2) ~~However~~ Except as limited under subdivision (c)(3) of this
 25 section, in the discretion of the court having jurisdiction, any contraband
 26 capable of lawful use may be:

27 (A) Retained for use by the law enforcement agency
 28 responsible for the arrest; or

29 (B) Sold and the proceeds disposed of in the manner
 30 provided by subsections (e)-(g) of this section.

31 (3) Contraband described in subdivisions (b)(3)-(7) of this
 32 section are deemed as having no lawful use and shall not be retained or sold.

33
 34 SECTION 3. Arkansas Code Title 6, Chapter 13, Subchapter 10 is amended
 35 to add an additional section to read as follows:

36 6-13-1027. Mandatory reporter training.

1 (a) Each education service cooperative shall cooperate with the Fay W.
 2 Boozman College of Public Health of the University of Arkansas for Medical
 3 Sciences in the development of the online and web-based child abuse reporting
 4 program required under § 6-64-419.

5 (b) Each education service cooperative shall assist teachers in
 6 gaining access to and working with the online and web-based child abuse
 7 reporting program required under § 6-64-419.

8
 9 SECTION 4. Arkansas Code Title 6, Chapter 64, Subchapter 4 is amended
 10 to add additional sections to read as follows:

11 6-64-418. College of Public Health collaboration.

12 It is recommended that the Health Behavior/Health Education Department
 13 of the Fay W. Boozman College of Public Health of the University of Arkansas
 14 for Medical Sciences collaborate with community health agencies, school
 15 nurses, counselors, and educators to introduce age-appropriate, research-
 16 supported, child abuse prevention curriculum to the children of Arkansas.

17
 18 6-64-419. Mandatory reporter training.

19 (a) The Fay W. Boozman College of Public Health of the University of
 20 Arkansas for Medical Sciences shall develop a curriculum concerning abused
 21 and neglected children mandatory reporter training for the following
 22 mandatory reporters:

23 (1) Teachers;

24 (2) Child care workers;

25 (3) Mental health professionals; and

26 (4) Other mandatory reporters as the college shall determine in
 27 consultation with the respective licensing boards of mandatory reporters.

28 (b) The college shall include in its curriculum an externship or
 29 internship for students to teach mandatory reporters that shall include
 30 without limitation:

31 (1) The signs and symptoms of abuse;

32 (2) Training on the specifics that are required to be reported
 33 under law and rules; and

34 (3) The managing of disclosures.

35 (c)(1) The college shall establish an online and web-based child abuse
 36 reporting program.

1 (2) The online and web-based child abuse reporting program shall
 2 include without limitation training modules for mandatory reporters and the
 3 public.

4 (d) The University of Arkansas shall be approved by the Arkansas
 5 Higher Education Coordinating Board to receive funding from the Arkansas
 6 Academic Challenge Scholarship Program or the Arkansas Governor's Scholars
 7 Program only if the college implements procedures in compliance with this
 8 section.

9
 10 SECTION 5. Arkansas Code Title 9, Chapter 5 is amended to add an
 11 additional chapter to read as follows:

12 9-5-101. Title.

13 This chapter shall be known and may be cited as the "Arkansas
 14 Children's Advocacy Center Act".

15
 16 9-5-102. Definitions.

17 As used in this chapter:

18 (1) "Child abuse" means any nonaccidental physical injury,
 19 mental injury, sexual abuse, or sexual exploitation inflicted by those
 20 legally responsible for the care and maintenance of the child, or an injury
 21 which is at variance with the history given. The term encompasses both acts
 22 and omissions;

23 (2) "Children's Advocacy Center" means a not for profit child
 24 friendly facility that assists in the coordination of the investigation of
 25 child abuse by providing a location for forensic interviews and promoting the
 26 coordination of services for children alleged to have been abused; and
 27 provide services that include without limitation to forensic medical
 28 examinations; mental health and related support services; court advocacy;
 29 consultation; training; and staffing of multidisciplinary teams;

30 (2) "Commission" means the Arkansas Child Abuse/Rape/Domestic
 31 Violence Commission;

32 (3) "Cultural competence" means the capacity to function in more
 33 than one (1) culture, including without limitation the ability to appreciate,
 34 understand, and interact with members of diverse populations within the local
 35 community; and

36 (4) "Domestic abuse" means:

1 (A) Physical harm, bodily injury, or assault between
2 family or household members;

3 (B) The infliction of fear of imminent physical harm,
4 bodily injury, or assault between family or household members; or

5 (C) Any sexual conduct between family or household
6 members, whether minors or adults that constitutes a crime under the laws of
7 this state.

8
9 9-5-103. Statewide purpose.

10 The statewide purpose of this chapter is to establish a program that
11 provides a comprehensive, multidisciplinary, nonprofit, intergovernmental
12 response to sexual abuse of children and serious physical abuse of children
13 in a facility known as a Children’s Advocacy Center.

14
15 9-5-104. Duties of the Arkansas Child Abuse/Rape/Domestic Violence
16 Commission.

17 (a) Regarding the administration of the Arkansas Children’s Advocacy
18 Center Fund and an entity receiving funding under this chapter, the Arkansas
19 Child Abuse/Rape/Domestic Violence Commission or its designee, to the extent
20 funding is appropriated and available, shall:

21 (1) Annually evaluate each children’s advocacy center for
22 compliance with the program, fiscal, and training requirements under this
23 chapter;

24 (2) Promulgate rules, procedures, and forms for the evaluation
25 of each children’s advocacy center;

26 (3) Adopt a uniform system of recordkeeping to ensure the proper
27 handling of funds by children’s advocacy centers;

28 (4) Provide training and technical assistance to children’s
29 advocacy centers to ensure minimum standards of service delivery;

30 (5) Serve as a clearinghouse for information relating to child
31 abuse; and

32 (6) Provide educational programs on child abuse for the benefit
33 of the general public, victims, specific groups of persons, and other persons
34 as needed.

35 (b)(1) The commission may enter into contracts with any entity to
36 fulfill its duties under this chapter.

1 (2) The entity shall:

2 (A) Be organized as a statewide nonprofit corporation that
3 provides services, community education, and technical assistance to
4 children’s advocacy centers; and

5 (B) Be affiliated with the National Children’s Alliance.

6
7 9-5-105. Receipt of money.

8 Under this chapter and in the administration of the Arkansas Children’s
9 Advocacy Center Fund, the Arkansas Child Abuse/Rape/Domestic Violence
10 Commission shall not accept money or other assistance from the federal
11 government or any other entity or individual if the acceptance would
12 obligate the State of Arkansas except to the extent that money is available
13 in the fund.

14
15 9-5-106. Disbursement of funds.

16 (a) The Arkansas Child Abuse/Rape/Domestic Violence Commission may
17 disburse money appropriated from the Children’s Advocacy Center Fund
18 exclusively for the following purposes:

19 (1) To satisfy contractual obligations made to perform its
20 duties under this section;

21 (2) To make grants to children’s advocacy centers that meet the
22 requirements of this section; and

23 (3) To compensate the commission or its designee for
24 administration costs associated with the performance of duties under this
25 chapter.

26 (b)(1) The commission may disburse funds, to the extent appropriated
27 and available, from the Children’s Advocacy Center Fund to a qualified
28 medical entity or a qualified mental health entity for education, peer
29 review, and consultation to medical service providers and mental health
30 service providers qualified under this section for clients of children’s
31 advocacy centers.

32 (2) A medical entity shall have physicians who:

33 (A) Have:

34 (i) Subspecialty training in pediatric medicine,
35 emergency medicine, pediatric gynecology, family practice, or obstetrics and
36 gynecology; and

1 (ii) Specialized training in the evaluation of child
 2 sexual abuse cases;

3 (B) Provide initial evaluations of abused and assaulted
 4 children and adolescents, perform second opinion examinations for less
 5 experienced examiners, and review photographs and videotapes for other
 6 examiners;

7 (C) Hold a teaching or faculty position and provide
 8 training and workshops on child sexual abuse-related issues;

9 (D) Hold membership in professional organizations on child
 10 abuse-related and neglect related issues;

11 (E) Work for or are affiliated with a regional center for
 12 the medical evaluation of sexually abused children; and

13 (F) Regularly testify in child sexual abuse cases.

14 (3) A mental health entity shall have professionals who:

15 (A) Are licensed mental health professionals;

16 (B) Have:

17 (i) Specialized training in assessment and treatment
 18 of children and families; and

19 (ii) Specialized training in trauma and child abuse;

20 (C) Provide assessment and treatment of abused and
 21 assaulted children and adolescents;

22 (D) Provide consultation and training for other providers
 23 and multidisciplinary groups;

24 (E) Hold a teaching or faculty position;

25 (F) Hold membership in professional organizations on child
 26 abuse-related and neglect-related issues;

27 (G) Work for or are affiliated with a regional center for
 28 the medical evaluation of sexually abused children; and

29 (H) Regularly testify in child sexual abuse cases.

30
 31 9-5-107. Program requirements.

32 Each children's advocacy center shall:

33 (1) Provide a comfortable, private, child-friendly setting that
 34 is both physically and psychologically safe for diverse populations of
 35 children and their families;

36 (2) Be a part of a multidisciplinary team that includes

1 representation from law enforcement, child protective services, prosecution,
2 mental health services, medical services, and victim advocacy services for
3 response to child abuse allegations;

4 (3) Have a not-for-profit entity responsible for program, fiscal
5 operations established, and implement basic sound administrative practices;

6 (4) Promote policies, practices, and procedures that are
7 culturally competent;

8 (5) Promote forensic interviews that are:

9 (A) Legally sound;

10 (B) Of a neutral, fact-finding nature; and

11 (C) Coordinated to avoid duplicative interviewing;

12 (6) Provide or provide access to, or both, specialized medical
13 evaluations and treatment services to all children's advocacy center clients;

14 (7) Coordinate with the multidisciplinary team response to
15 provide follow-up services or treatment, or both, as necessary.

16 (8) Provide specialized mental health services as part of the
17 team response either at a children's advocacy center or through coordination
18 with other treatment providers;

19 (9) Provide victim support and advocacy throughout the
20 investigation process and the prosecution process;

21 (10) Provide team discussion and information sharing regarding
22 the investigation, case status, and services needed on a routine basis by the
23 child and family; and

24 (11) Develop and implement a system for monitoring case progress
25 and tracking case outcomes for all multidisciplinary team components.

26
27 9-5-108. Access to specialized medical evaluations and psychological
28 treatment.

29 (a)(1) The children's advocacy centers shall provide or provide access
30 to specialized medical evaluations and psychological treatment for their
31 clients, to the extent funding is appropriated and available.

32 (2) Medical providers operating under this chapter shall be
33 capable of performing:

34 (A) A complete medical history;

35 (B) An evaluation of a child or an adolescent for evidence
36 of fresh injuries of sexual abuse or sexual assault using photo documentation

1 for recognition and photo documentation of genital and anal findings that are
 2 clearly normal or normal variants and common patterns of healed injuries;

3 (C) Collection of forensic evidence; and

4 (D) Performance of tests and treatment as appropriate.

5 (b) The mental health services in the children's advocacy centers
 6 shall strive to provide:

7 (1) A complete history, including without limitation
 8 developmental history and history of exposure to violence, abuse, and
 9 neglect;

10 (2) Assessment for trauma symptoms;

11 (3) Support, information, and treatment for child victims of
 12 violence, abuse, or neglect, the siblings of child victims of violence,
 13 abuse, or neglect, and nonoffending parents and caregivers;

14 (4) Arrangements for appropriate re-evaluations and referrals;

15 (5) Court testimony when necessary; and

16 (6) Participation in ongoing continuing education and peer
 17 review.

18
 19 9-5-109. Contracts with children's advocacy centers.

20 (a) The statewide organization that the Arkansas Child
 21 Abuse/Rape/Domestic Violence Commission or the Attorney General contracts
 22 with shall contract for services with eligible children's advocacy centers to
 23 enhance the existing services of the programs.

24 (b) A contract under this section shall not reduce the financial
 25 support a local children's advocacy center receives from any other source.

26 (c)(1) If the Attorney General enters into a contract with a statewide
 27 organization under this section, the Attorney General by rule shall adopt
 28 standards for eligible local children's advocacy centers.

29 (2) The statewide organization shall assist the Attorney General
 30 in developing the standards.

31
 32 9-5-110. Eligibility for contracts.

33 (a) A public entity that operated as a children's advocacy center
 34 before November 1, 1995, or a nonprofit entity is eligible for a contract
 35 under § 9-5-107 if the entity:

36 (1) Has a signed memorandum of understanding as provided by § 9-

1 5-109;

2 (2) Operates under the authority of a governing board;

3 (3) Has a multidisciplinary team of persons involved in the
4 investigation or prosecution of child abuse cases or the delivery of services
5 to abused and neglected children;

6 (4) Holds regularly scheduled case reviews;

7 (5) Operates in a neutral and physically separate space from the
8 day-to-day operations of any public agency partner;

9 (6) Has developed a method of statistical information gathering
10 on children receiving services through the children's advocacy center and
11 shares the statistical information with the statewide organization, the
12 Department of Health and Human Services, and the Attorney General upon
13 request;

14 (7) Has an in-house volunteer program;

15 (8) Employs an executive director who is answerable to the board
16 of directors of the public or nonprofit entity and who is not the exclusive
17 salaried employee of any public agency partner; and

18 (9) Operates under a working protocol that includes, at a
19 minimum, a statement of:

20 (A) The children's advocacy center's mission;

21 (B) Each agency's role and commitment to the center;

22 (C) The type of cases to be handled by the children's
23 advocacy center;

24 (D) The children's advocacy center's procedures for
25 conducting case reviews and forensic interviews and for ensuring access to
26 specialized medical services and mental health services; and

27 (E) The children's advocacy center's policies regarding
28 confidentiality and conflict resolution.

29 (b)(1) The statewide organization may waive the requirements specified
30 in subsection (a) of this section if the statewide organization determines
31 that the waiver will not adversely affect the center's ability to carry out
32 its duties under this chapter.

33 (2) Any waiver that is granted under subdivision (b)(1) of this
34 section shall be identified in the written contract with the children's
35 advocacy center.

36

1 9-5-111. Interagency memorandum of understanding.

2 (a) Before a children's advocacy center may be established under this
 3 chapter, a memorandum of understanding regarding participation in the
 4 operation of the children's advocacy center shall be executed among:

5 (1) The division of the department responsible for child abuse
 6 investigations;

7 (2) Representatives of county and municipal law enforcement
 8 agencies that investigate child abuse in the area to be served by the
 9 children's advocacy center;

10 (3) The prosecuting attorney who routinely prosecutes child
 11 abuse cases in the area to be served by the children's advocacy center; and

12 (4) A representative of any other governmental entity that
 13 participates in child abuse investigations or offers services to child abuse
 14 victims that desires to participate in the operation of the children's
 15 advocacy center.

16 (b) A memorandum of understanding executed under this section shall
 17 include the agreement of each participating entity to cooperate in:

18 (1) Developing a cooperative, multidisciplinary-team approach to
 19 investigations of child abuse;

20 (2) Reducing, to the greatest extent possible, the number of
 21 interviews required of a victim of child abuse with the goal of minimizing
 22 the negative impact of the investigation on the child; and

23 (3) Developing, maintaining, and supporting, through the center,
 24 an environment that emphasizes the best interests of children and that
 25 provides investigatory and rehabilitative services.

26 (c) A memorandum of understanding executed under this section may
 27 include the agreement of one (1) or more participating entities to provide
 28 office space and administrative services necessary for the children's
 29 advocacy center's operation.

30
 31 9-5-112. Fiscal requirements.

32 Every children's advocacy center shall:

33 (1) Incorporate in this state as a private nonprofit corporation
 34 that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code
 35 of 1986, 26 U.S.C. § 501 (c)(3), as it existed on January 1, 2007, and that
 36 has the primary purpose of providing services to child victims of child

1 abuse;

2 (2) Be governed by a board of directors;

3 (3) Develop and implement written personnel policies that state
 4 the children’s advocacy centers employment practices;

5 (4) Develop and implement written procedures that conform with
 6 the uniform system of recordkeeping developed by the Arkansas Child
 7 Abuse/Rape/Domestic Violence Commission or its designee to ensure proper
 8 handling of funds; and

9 (5) Provide the commission or its designee with statistical data
 10 that states the following:

11 (A) The type of services provided by the centers; and

12 (B) The number of children served each year.

13
 14 9-5-113. Right of entry.

15 The Arkansas Child Abuse/Rape/Domestic Violence Commission or its
 16 designee may enter and inspect the premises of a children’s advocacy center
 17 to perform an annual evaluation or to otherwise determine compliance with
 18 this chapter.

19
 20 9-5-114. Reports.

21 The Arkansas Child Abuse/Rape/Domestic Violence Commission or its
 22 designee shall provide an annual report by March 1 of each year to the Chair
 23 of the Senate Interim Committee on Children and Youth and the Chair of the
 24 House Interim Committee on Aging, Children and Youth, Legislative and
 25 Military Affairs containing the following information:

26 (1) The incidence of child abuse in this state based on
 27 information obtained from children’s advocacy centers under this chapter;

28 (2) A description of centers that meet the requirements of and
 29 receive funding from the commission or its designee under this chapter; and

30 (3) The number of children assisted by the centers that receive
 31 funding from the commission or its designee under this chapter.

32
 33 9-5-115. Disclosure of information.

34 Information received by the Arkansas Child Abuse/Rape/Domestic Violence
 35 Commission, its employees, or its designees through files, reports,
 36 evaluations, inspections, or otherwise shall be confidential information and

1 shall not be disclosed publicly in a manner as to identify individuals or
2 facilities.

3
4 9-5-116. Sharing information regarding child abuse and neglect with
5 state or local agencies.

6 Nothing in this chapter prohibits an agency that provides protective
7 services from sharing information with other state or local agencies,
8 children's advocacy centers, and county multidisciplinary teams if:

9 (1) The purpose for sharing the information is for the
10 development of a plan for the care, treatment, or supervision of a child who
11 has been abused or neglected or for a person responsible for the child's
12 welfare;

13 (2) The other agency has standards for confidentiality
14 equivalent to those of the agency that provides protective services; and

15 (3) Proper safeguards are taken to ensure the confidentiality of
16 the information.

17
18 9-5-117. Attorney General – Duties.

19 The Attorney General and each children's advocacy center shall fulfill
20 the statewide purpose of each center by:

21 (1) Minimizing the time and duplication of effort required to
22 investigate, prosecute, and initiate treatment for the abused child in the
23 state;

24 (2) Facilitating the investigation of the alleged offense
25 against an abused child;

26 (3) Conducting interviews of abused children and their families
27 in a professional manner;

28 (4) Obtaining reliable and admissible information that can be
29 used effectively in criminal and child protection proceedings in the state;

30 (5) Coordinating and tracking:

31 (A) The use of limited medical and psychiatric services;

32 (B) Investigation of the alleged offense;

33 (C) Preparation of prosecution;

34 (D) Treatment of the abused child and family; and

35 (E) Education and training of individuals who provide
36 services to the abused child and its family in the state;

1 (6) Expediting the processing of the case through the courts in
2 the state; and

3 (7) Protecting the interest of the abused child and the
4 community.

5
6 9-5-118. Immunity from civil liability.

7 The Arkansas Child Abuse/Rape/Domestic Violence Commission, its
8 employees, and its designees shall be immune from civil liability for
9 performing their duties under this chapter.

10
11 SECTION 6. Arkansas Code Title 9, Chapter 25, Subchapter 1 is amended
12 to add additional sections to read as follows:

13 9-25-105. Foster parent training.

14 (a) As used in this section, "foster parent" means an individual with
15 whom a child in the custody of the Division of Children and Family Services
16 of the Department of Health and Human Services is placed for temporary or
17 long-term care but shall not include any persons with whom a child is placed
18 for the purpose of adoption.

19 (b) After the effective date of this act, no individual shall be
20 approved as a foster parent unless the person has the training specified in
21 subsection (c) of this section.

22 (c)(1) The division shall promulgate rules to ensure that foster
23 parents receive uniform training throughout the state.

24 (2) The rules shall specify a minimum training that shall be
25 completed before a foster parent is approved.

26 (3) The rules shall include a minimum of annual continuing
27 education training for approved foster parents.

28
29 9-25-106. Smoking in foster parent dwellings.

30 (a) As used in this section, "dwelling" means an enclosed space that
31 is used or intended to be used as a human habitation, home, or residence on a
32 temporary or permanent basis.

33 (b) Smoking is prohibited in any dwelling occupied by a foster child.
34

35 SECTION 7. Arkansas Code § 9-27-303(3), regarding the definition of
36 abuse as it relates to the Juvenile Code, is amended to read as follows:

1 (3)(A) "Abuse" means any of the following acts or omissions by a
2 parent, guardian, custodian, foster parent, person eighteen (18) years of age
3 or older living in the home with a child, whether related or unrelated to the
4 child, or any person who is entrusted with the juvenile's care by a parent,
5 guardian, custodian, or foster parent, including, but not limited to, an
6 agent or employee of a public or private residential home, child care
7 facility, public or private school, or any person legally responsible for the
8 juvenile's welfare:

9 (i) Extreme or repeated cruelty to a juvenile;

10 (ii) Engaging in conduct creating a realistic and
11 serious threat of death, permanent or temporary disfigurement, or impairment
12 of any bodily organ;

13 (iii) Injury to a juvenile's intellectual,
14 emotional, or psychological development as evidenced by observable and
15 substantial impairment of the juvenile's ability to function within the
16 juvenile's normal range of performance and behavior;

17 (iv) Any injury that is at variance with the history
18 given;

19 (v) Any nonaccidental physical injury;

20 (vi) Any of the following intentional or knowing
21 acts, with physical injury and without justifiable cause:

22 (a) Throwing, kicking, burning, biting, or
23 cutting a child;

24 (b) Striking a child with a closed fist;

25 (c) Shaking a child; or

26 (d) Striking a child on the face; or

27 (vii) Any of the following intentional or knowing
28 acts, with or without physical injury:

29 (a) Striking a child six (6) years of age or
30 younger on the face or head;

31 (b) Shaking a child three (3) years of age or
32 younger;

33 (c) Interfering with a child's breathing;

34 (d) Urinating or defecating on a child;

35 (e) Pinching, biting, or striking a child in
36 the genital area;

1 (f) Tying a child to a fixed or heavy object
2 or binding or tying a child's limbs together;

3 (g) Giving a child or permitting a child to
4 consume or inhale a poisonous or noxious substance not prescribed by a
5 physician that has the capacity to interfere with normal physiological
6 functions;

7 (h) Giving a child or permitting a child to
8 consume or inhale a substance not prescribed by a physician that has the
9 capacity to alter the mood of the child, including, but not limited to, the
10 following:

11 (1) Marijuana;

12 (2) Alcohol, excluding alcohol given to
13 a child during a recognized and established religious ceremony or service;

14 (3) Narcotics; or

15 (4) Over-the-counter drugs if a person
16 purposely administers an overdose to a child or purposely gives an
17 inappropriate over-the-counter drug to a child and the child is detrimentally
18 impacted by the overdose or over-the-counter drug;

19 (i) Exposing a child to chemicals that have
20 the capacity to interfere with normal physiological functions, including, but
21 not limited to, chemicals used or generated during the manufacturing of
22 methamphetamine; or

23 (j) Subjecting a child to Munchausen syndrome
24 by proxy, also known as factitious illness by proxy, when reported and
25 confirmed by medical personnel or a medical facility.

26 (B)(i) The list in subdivision (3)(A) of this section is
27 illustrative of unreasonable action and is not intended to be exclusive.

28 (ii) No unreasonable action shall be construed to
29 permit a finding of abuse without having established the elements of abuse.

30 (C) There is a presumption of abuse under this subdivision
31 (3) if there is a finding that a juvenile has been exposed to a domestic
32 abuse situation, including without limitation:

33 (i) Domestic battering under §§ 5-26-303 – 5-26-305;

34 (ii) Aggravated assault on a family or household
35 member under § 5-26-306; or

36 (iii) Assault on a family or household member under

1 §§ 5-26-307 – 5-27-309.

2 ~~(C)~~(D) "Abuse" shall not include:

3 (i) Physical discipline of a child when it is
 4 reasonable and moderate and is inflicted by a parent or guardian for purposes
 5 of restraining or correcting the child; ~~or~~

6 (ii) Instances when a child suffers transient pain
 7 or minor temporary marks as the result of a reasonable restraint if:

8 (a) The person exercising the restraint is an
 9 employee of an agency licensed or exempted from licensure under the Child
 10 Welfare Agency Licensing Act, § 9-28-401 et seq.;

11 (b) The agency has policies and procedures
 12 regarding restraints;

13 (c) No other alternative exists to control the
 14 child except for a restraint;

15 (d) The child is in danger of hurting himself
 16 or herself or others;

17 (e) The person exercising the restraint has
 18 been trained in properly restraining children, de-escalation, and conflict
 19 resolution techniques; and

20 (f) The restraint is for a reasonable period
 21 of time~~;~~;

22 (iii) Reasonable and moderate physical discipline
 23 inflicted by a parent or guardian shall not include any act that is likely to
 24 cause and which does cause injury more serious than transient pain or minor
 25 temporary marks~~;~~ and

26 (iv) The age, size, and condition of the child and
 27 the location of the injury and the frequency or recurrence of injuries shall
 28 be considered when determining whether the physical discipline is reasonable
 29 or moderate;

30
 31 SECTION 8. Arkansas Code § 9-27-352, concerning confidentiality of
 32 records regarding juvenile arrest, detention, and court proceedings, is
 33 amended to add an additional subsection to read as follows:

34 (d)(1) When a court orders that a juvenile have a safety plan that
 35 restricts or requires supervised contact with another juvenile or juveniles,
 36 the court shall direct that a copy of the safety plan and a copy of the court

1 order regarding the safety plan be provided to the school superintendent and
 2 school counselor where the juvenile is enrolled.

3 (2) When a court order amends or removes any safety plan
 4 outlined in subdivision (d)(1) of this section, the court shall direct that a
 5 copy of the safety plan and a copy of the court order regarding the safety
 6 plan be provided to the school superintendent and school counselor where the
 7 juvenile is enrolled.

8 (3) Any local educational agency that receives a court order
 9 outlined in subdivision (d)(1) or (d)(2) of this section shall:

10 (A) Keep the information confidential;

11 (B) Include the information in the juvenile's permanent
 12 educational records; and

13 (C)(i) Treat the information and documentation contained
 14 in the court order as education records under the Family Educational Rights
 15 and Privacy Act, 20 U.S.C. § 1232g, as it existed on January 1, 2007.

16 (ii) The local education agency shall not release,
 17 disclose, or make available the information and documentation contained in
 18 the court order for inspection to any party except as permitted under the
 19 Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, as it existed
 20 on January 1, 2007.

21 (iii) However, under no circumstances shall the
 22 local education agency release, disclose, or make available for inspection to
 23 the public, any college, university, institution of higher learning,
 24 vocational or trade school, or any past, present, or future employer of the
 25 student the court order or safety plan portion of a student record.

26 (4) When a student attains an age that he or she is no longer
 27 under the jurisdiction of the juvenile court, the safety plan and the order
 28 regarding the safety plan shall be removed from the school's permanent
 29 records and destroyed.

30
 31 SECTION 9. Arkansas Code § 10-3-2302 is amended to read as follows:
 32 10-3-2302. Creation.

33 (a) There is created the Arkansas Legislative Task Force on Abused and
 34 Neglected Children.

35 (b) The task force shall consist of the following members:

36 (1) The Governor or the Governor's designee;

1 (2) The Chair of the House Interim Committee on Public Health,
2 Welfare, and Labor or the chair's designee;

3 (3) The Chair of the Senate Interim Committee on Public Health,
4 Welfare, and Labor or the chair's designee;

5 (4) The Chair of the Senate Interim Committee on Children and
6 Youth or the chair's designee;

7 (5) The Chair of the House Committee on Aging, Children and
8 Youth, Legislative and Military Affairs or the chair's designee;

9 (6) The Director of the Division of Children and Family Services
10 of the Department of Health and Human Services or the director's designee;

11 (7) The Director of the Division of Mental Health Services of
12 the Department of Health and Human Services or the director's designee;

13 (8) The Director of the Division of Youth Services of the
14 Department of Health and Human Services or the director's designee;

15 (9) The Director of the Division of Child Care and Early
16 Childhood Education of the Department of Health and Human Services or the
17 director's designee;

18 (10) The Director of the Administrative Office of the Courts or
19 the director's designee;

20 (11) The Chair of the Arkansas Coalition for Juvenile Justice or
21 the chair's designee;

22 (12) A sheriff to be appointed by the President of the Arkansas
23 Sheriffs' Association;

24 (13) The Director of the Department of Arkansas State Police or
25 the director's designee;

26 (14) The Chair of the State Child Abuse and Neglect Prevention
27 Board or the chair's designee;

28 (15) One (1) member of the Arkansas Child Abuse/Rape/Domestic
29 Violence Commission to be appointed by the Chancellor of the University of
30 Arkansas for Medical Sciences;

31 (16) A public defender who regularly appears in the juvenile
32 division of a circuit court in the State of Arkansas to be appointed by the
33 Director of the Arkansas Public Defender Commission;

34 (17) A prosecutor who regularly appears in the juvenile division
35 of a circuit court in the State of Arkansas to be appointed by the Prosecutor
36 Coordinator;

1 (18) An attorney ad litem to be appointed by the Director of the
2 Administrative Office of the Courts;

3 (19) A physician with special knowledge and experience in the
4 treatment of children who have been abused or neglected;

5 (20) The Chief of Staff of Arkansas Children's Hospital or his
6 or her designee;

7 (21) Two (2) members to be appointed by the President Pro
8 Tempore of the Senate with specialized knowledge, skills, or experience in
9 the area of child welfare or the prevention of child abuse and neglect;

10 (22) Two (2) members to be appointed by the Speaker of the House
11 of Representatives with specialized knowledge, skills, or experience in the
12 area of child welfare or the prevention of child abuse and neglect; and

13 ~~(23) The Code Revisor of the Bureau of Legislative Research or~~
14 ~~the revisor's designee; and~~

15 ~~(24) The Director of the Bureau of Legislative Research or the~~
16 ~~director's designee.~~

17 (23) The Chief Counsel of the Department of Health and Human
18 Services or his or her designee; and

19 (24) A representative or employee of a children's advocacy
20 center in the state.

21 (c)(1) The Chair of the Senate Interim Committee on Children and Youth
22 or the chair's designee shall call the first meeting within ~~thirty (30)~~
23 ninety (90) days of August 12, 2005 the adjournment of the regular session of
24 the General Assembly and shall serve as chair at the first meeting.

25 (2) At the first meeting, the members of the task force shall
26 elect from its membership a chair and other officers as needed for the
27 transaction of its business.

28 (3)(A) The task force shall conduct its meetings in Pulaski
29 County at the State Capitol unless the chair designates another location in
30 the state that furthers the business of the task force.

31 (B) Meetings shall be held at least one (1) time every
32 three (3) months, but may occur more often at the call of the chair.

33 (d) If any vacancy occurs on the task force, the vacancy shall be
34 filled by the same process as the original appointment.

35 (e) The task force shall establish rules and procedures for conducting
36 its business.

1 (f)(1) ~~Members~~ Nonlegislator members of the task force shall serve
 2 without compensation, but may receive expense reimbursement according to §
 3 25-16-902 to the extent that funds are appropriated for that purpose.

4 (2) Legislator members shall be entitled to reimbursement for
 5 per diem and mileage at the same rate and from the same source as provided by
 6 law for members of the General Assembly attending meetings of interim
 7 committees.

8 (3) The task force shall be allowed study expenses for the
 9 calling of expert witnesses to testify and related expenses allowed under §
 10 10-3-215 to be paid by the Bureau of Legislative Research from the
 11 appropriation for interim task force study expenses or other available funds.

12 (g) A majority of the members of the task force shall constitute a
 13 quorum for transacting any business of the task force.

14 (h) The Bureau of Legislative Research shall provide staff for the
 15 task force.

16
 17 SECTION 10. Arkansas Code § 12-8-502(b), concerning the two sections
 18 of the child abuse hotline system, is amended to read as follows:

19 (b) The division shall consist of two (2) sections:

20 (1)(A) The Investigation Section, which shall be staffed with
 21 civilian personnel and shall be responsible for the investigation of
 22 allegations of child abuse in accordance with the Arkansas Child Maltreatment
 23 Act, § 12-12-501 et seq.

24 (B) ~~If~~ Unless the case involves alleged severe
 25 maltreatment, if at any point during the investigation of alleged child
 26 maltreatment the information gathered becomes sufficient for a possible
 27 criminal prosecution, then the case shall be referred for further
 28 investigation to the appropriate law enforcement agency; ~~and.~~

29 (C) The Investigation Section shall complete an
 30 investigation of a case involving alleged severe maltreatment before
 31 referring the case to a local law enforcement agency or a prosecutor for
 32 possible criminal prosecution; and

33 (2) The Child Abuse Hotline Section, which shall administer
 34 twenty-four-hour toll-free inward wide-area telephone services (INWATS) to
 35 report to the Department of Arkansas State Police information regarding
 36 possible incidents of child abuse.

1
 2 SECTION 11. Arkansas Code § 12-8-509(a), concerning required child
 3 abuse hotline reporting, is amended to read as follows:

4 (a) The state agency or entity responsible for administering the
 5 twenty-four-hour toll-free child abuse hotline or investigating an incident
 6 of neglect as defined under § 12-12-503(12)(B) shall:

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

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

10 (i) The Senate Interim Committee on Children and
 11 Youth;

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

14 (iii) The Senate Interim Committee on Public Health,
 15 Welfare, and Labor; and

16 (iv) The House Interim Committee on Public Health,
 17 Welfare, and Labor.

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

22 (i) The age of the mother;

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

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

27 (iv) The newborn child's health problems; and

28 (3)(A) Notify each mandatory reporter who makes a call to the
 29 hotline if the mandatory reporter's call is not accepted or is screened out
 30 on a subsequent hotline supervisor review.

31 (B) The notification required under subdivision (a)(3)(A)
 32 of this section shall be made within forty-eight (48) hours after a mandatory
 33 reporter makes a call to the hotline that is not accepted or is screened out
 34 on a subsequent hotline supervisor review.

35
 36 SECTION 12. Arkansas Code § 12-12-503(2), concerning the definition of

1 abuse as it relates to child abuse reporting, is amended to read as follows:

2 (2)(A) "Abuse" means any of the following acts or omissions by a
 3 parent, guardian, custodian, foster parent, person eighteen (18) years of age
 4 or older living in the home with a child whether related or unrelated to the
 5 child, or any person who is entrusted with the juvenile's care by a parent,
 6 guardian, custodian, or foster parent, including, but not limited to, an
 7 agent or employee of a public or private residential home, child care
 8 facility, public or private school, or any person legally responsible for the
 9 juvenile's welfare, but excluding the spouse of a minor:

10 (i) Extreme or repeated cruelty to a juvenile;

11 (ii) Engaging in conduct creating a realistic and
 12 serious threat of death, permanent or temporary disfigurement, or impairment
 13 of any bodily organ;

14 (iii) Injury to a juvenile's intellectual,
 15 emotional, or psychological development as evidenced by observable and
 16 substantial impairment of the juvenile's ability to function within the
 17 juvenile's normal range of performance and behavior;

18 (iv) Any injury that is at variance with the history
 19 given;

20 (v) Any nonaccidental physical injury;

21 (vi) Any of the following intentional or knowing
 22 acts, with physical injury and without justifiable cause:

23 (a) Throwing, kicking, burning, biting, or
 24 cutting a child;

25 (b) Striking a child with a closed fist;

26 (c) Shaking a child; or

27 (d) Striking a child on the face or head; or

28 (vii) Any of the following intentional or knowing
 29 acts, with or without physical injury:

30 (a) Striking a child age six (6) or younger on
 31 the face or head;

32 (b) Shaking a child age three (3) or younger;

33 (c) Interfering with a child's breathing;

34 (d) Pinching, biting, or striking a child in
 35 the genital area;

36 (e) Tying a child to a fixed or heavy object

1 or binding or tying a child's limbs together;

2 (f) Giving a child or permitting a child to
 3 consume or inhale a poisonous or noxious substance not prescribed by a
 4 physician that has the capacity to interfere with normal physiological
 5 functions;

6 (g) Giving a child or permitting a child to
 7 consume or inhale a substance not prescribed by a physician that has the
 8 capacity to alter the mood of the child, including, but not limited to, the
 9 following:

10 (1) Marijuana;

11 (2) Alcohol, excluding alcohol given to
 12 a child during a recognized and established religious ceremony or service;

13 (3) A narcotic; or

14 (4) An over-the-counter drug if a person
 15 purposely administers an overdose to a child or purposely gives an
 16 inappropriate over-the-counter drug to a child and the child is detrimentally
 17 impacted by the overdose or the over-the-counter drug;

18 (h) Exposing a child to a chemical that has
 19 the capacity to interfere with normal physiological functions, including, but
 20 not limited to, a chemical used or generated during the manufacture of
 21 methamphetamine; or

22 (i) Subjecting a child to Munchausen's
 23 syndrome by proxy or a factitious illness by proxy if the incident is
 24 reported and confirmed by medical personnel or a medical facility.

25 (B)(i) The list in subdivision (2)(A) of this section is
 26 illustrative of unreasonable action and is not intended to be exclusive.

27 (ii) No unreasonable action shall be construed to
 28 permit a finding of abuse without having established the elements of abuse.

29 (C) There is a presumption of abuse under this subdivision
 30 (2) if there is a finding that a child has been exposed to a domestic abuse
 31 situation, including without limitation:

32 (i) Domestic battering under §§ 5-26-303 – 5-26-305;

33 (ii) Aggravated assault on a family or household
 34 member under § 5-26-306; or

35 (iii) Assault on a family or household member under
 36 §§ 5-26-307 – 5-27-309.

1 ~~(C)(i)~~(D)(i) "Abuse" shall not include physical discipline
2 of a child when it is reasonable and moderate and is inflicted by a parent or
3 guardian for purposes of restraining or correcting the child.

4 (ii) "Abuse" shall not include when a child suffers
5 transient pain or minor temporary marks as the result of an appropriate
6 restraint if:

7 (a) The person exercising the restraint is an
8 employee of an agency licensed or exempted from licensure under The Child
9 Welfare Agency Licensing Act, § 9-28-401 et seq.;

10 (b) The agency has policy and procedures
11 regarding restraints;

12 (c) No other alternative exists to control the
13 child except for a restraint;

14 (d) The child is in danger or hurting himself
15 or herself or others;

16 (e) The person exercising the restraint has
17 been trained in properly restraining children, de-escalation, and conflict
18 resolution techniques; and

19 (f) The restraint is for a reasonable period
20 of time.

21 (iii) Reasonable and moderate physical discipline
22 inflicted by a parent or guardian shall not include any act that is likely to
23 cause and which does cause injury more serious than transient pain or minor
24 temporary marks.

25 (iv) The age, size, and condition of the child and
26 the location of the injury and the frequency or recurrence of injuries shall
27 be considered when determining whether the physical discipline is reasonable
28 or moderate;

29
30 SECTION 13. Arkansas Code § 12-12-507(b), concerning reports of
31 suspected abuse or neglect, is amended to read as follows:

32 (b) When any of the following has reasonable cause to suspect that a
33 child has been subjected to child maltreatment or has died as a result of
34 child maltreatment or observes a child being subjected to conditions or
35 circumstances that would reasonably result in child maltreatment, he or she
36 shall immediately notify the child abuse hotline by telephone call or other

1 communication, and the child abuse hotline shall accept the telephone call or
2 other communication:

- 3 (1) Any child care worker or foster care worker;
- 4 (2) A coroner;
- 5 (3) A day care center worker;
- 6 (4) A dentist;
- 7 (5) A dental hygienist;
- 8 (6) A domestic abuse advocate;
- 9 (7) A domestic violence shelter employee;
- 10 (8) A domestic violence shelter volunteer;
- 11 (9) An employee of the Department of Health and Human Services;
- 12 (10) An employee working under contract for the Division of
13 Youth Services of the Department of Health and Human Services;
- 14 (11) Any foster parent;
- 15 (12) A judge;
- 16 (13) A law enforcement official;
- 17 (14) A licensed nurse;
- 18 (15) Any medical personnel who may be engaged in the admission,
19 examination, care, or treatment of persons;
- 20 (16) A mental health professional;
- 21 (17) An osteopath;
- 22 (18) A peace officer;
- 23 (19) A physician;
- 24 (20) A prosecuting attorney;
- 25 (21) A resident intern;
- 26 (22) A school counselor;
- 27 (23) A school official;
- 28 (24) A social worker;
- 29 (25) A surgeon;
- 30 (26) A teacher;
- 31 (27) A court-appointed special advocate program staff member or
32 volunteer;
- 33 (28) A juvenile intake or probation officer; or
- 34 (29) Any clergyman, which includes a minister, priest, rabbi,
35 accredited Christian Science practitioner, or other similar functionary of a
36 religious organization, or an individual reasonably believed to be so by the

1 person consulting him or her, except to the extent he or she:

2 (A) Has acquired knowledge of suspected maltreatment
3 through communications required to be kept confidential pursuant to the
4 religious discipline of the relevant denomination or faith; or

5 (B) Received the knowledge of the suspected maltreatment
6 from the offender in the context of a statement of admission.

7
8 SECTION 14. Arkansas Code § 12-12-507(c), concerning prohibitions on
9 interference with reports of child abuse, is amended to read as follows:

10 (c)(1) No privilege or contract shall prevent anyone from reporting
11 child maltreatment when he or she is a mandated reporter as required by this
12 section.

13 (2) No school, Head Start program, or day care facility shall
14 prohibit an employee or volunteer from directly reporting child maltreatment
15 to the child abuse hotline.

16 (3) No school, Head Start program, or day care facility shall
17 require an employee or volunteer to obtain permission or notify any person,
18 including an employee or supervisor, before reporting child maltreatment to
19 the child abuse hotline.

20
21 SECTION 15. Arkansas Code § 12-12-507(e)(2), concerning investigations
22 of allegations of child abuse or neglect, is amended to read as follows:

23 (2)(A) Such procedures shall include referral of allegations to
24 the Department of Arkansas State Police ~~or~~ and any other appropriate law
25 enforcement agency should the allegation involve severe maltreatment.

26 (B) The Department of Arkansas State Police shall
27 investigate the allegations.

28 ~~(B)(C)~~ (C) The investigating agency shall immediately notify
29 local law enforcement of all reports of severe maltreatment.

30
31 SECTION 16. Arkansas Code § 12-12-507(f)(6), concerning mandatory
32 reports that the child abuse hotline must accept, is amended to read as
33 follows:

34 (6) The child abuse hotline shall accept a report of neglect as
35 defined under § 12-12-503(12)(B) only if the reporter is one (1) of the
36 following mandatory reporters and the reporter has reasonable cause to

1 suspect that a child has been subjected to neglect as defined under § 12-12-
 2 503(12)(B):

- 3 (A) A licensed nurse;
- 4 (B) Any medical personnel who may be engaged in the
 5 admission, examination, care, or treatment of persons;
- 6 (C) An osteopath;
- 7 (D) A physician;
- 8 (E) A resident intern; ~~or~~
- 9 (F) A surgeon; or
- 10 (G) A social worker in a hospital or clinic.

11
 12 SECTION 17. Arkansas Code § 12-12-509(a)(2)(B), concerning the time
 13 limit for investigations of suspected child maltreatment, is amended to read
 14 as follows:

15 (B) However, ~~if the notice contains an allegation of~~
 16 ~~severe maltreatment, then~~ the investigation shall begin within twenty-four
 17 (24) hours if the allegation is:

- 18 (i) Severe maltreatment; or
- 19 (ii) Neglect as defined in § 12-12-503(12)(B).

20
 21 SECTION 18. Arkansas Code § 12-12-512(a), concerning child
 22 maltreatment investigative determinations, is amended to read as follows:

23 (a) Upon completion of the investigation, the Department of Health and
 24 Human Services shall determine that the allegations of child maltreatment
 25 are:

- 26 (1)(A)(i) Unsubstantiated.
- 27 (ii) This determination shall be entered when the
 28 allegation is not supported by a preponderance of the evidence.

29 (B)(i) An unsubstantiated report shall be confidential and
 30 shall be disclosed only to:

- 31 (a) The prosecutor;
- 32 (b) A subject of the report;
- 33 (c) A court if the information in the record
 34 is necessary for a determination of an issue before the court;
- 35 (d) Individual federal and state senators and
 36 representatives and their staff members, but no disclosure may be made to any

1 committee or legislative body;

2 (e) Law enforcement agencies;

3 (f) Any appropriate licensing or registering
4 authority; and

5 (g) Adult protective services.

6 (ii) Any person or agency to whom disclosure is made
7 shall not disclose to any other person a report or other information obtained
8 pursuant to subdivision (a)(1)(B)(i) of this section; or

9 (2)(A)(i) True.

10 (ii)(a) A true determination shall be entered when
11 the allegation is supported by a preponderance of the evidence.

12 (b) However, for any act or omission of
13 maltreatment which would be a criminal offense or an act of delinquency, any
14 defense or affirmative defense that would be applicable to the criminal
15 offense or delinquent act is also cognizable in a maltreatment proceeding.

16 (B)~~(i)~~ A determination of true but exempted, which means
17 that the offender's name shall not be placed in the central registry, shall
18 be entered if:

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

24 ~~(b)(ii)~~ The offender is an underaged juvenile
25 aggressor; or

26 (iii) The report was founded for neglect as defined
27 in § 12-12-503(12)(B).

28 (C)(i) Notwithstanding subdivision (a)(2)(A)(i) of this
29 section, the department may pursue:

30 (a) Any legal remedies, including the
31 authority to initiate legal proceedings in a court of competent jurisdiction;
32 and

33 (b) Medical care or treatment for a child when
34 such care or treatment is necessary to prevent or remedy serious harm to the
35 child or to prevent the withholding of medically indicated treatment from a
36 child with life-threatening conditions.

1 (ii) Except with respect to the withholding of
 2 medically indicated treatments from a disabled infant with life-threatening
 3 conditions, case-by-case determinations concerning the exercise of authority
 4 in this subsection shall be within the sole discretion of the department.

5
 6 SECTION 19. Arkansas Code § 12-12-516(a), concerning protective
 7 custody of children, is amended to read as follows:

8 (a)(1) A police officer, a law enforcement official, or the designated
 9 protective custody officer of a police officer or law enforcement officer, a
 10 juvenile division of circuit court judge during juvenile proceedings
 11 concerning the child or a sibling of the child, or a designated employee of
 12 the Department of Health and Human Services may take a child into protective
 13 custody or any person in charge of a hospital or similar institution or any
 14 physician treating a child may keep that child in his or her custody without
 15 the consent of the parent or the guardian, whether or not additional medical
 16 treatment is required, if the:

17 (A) Child is dependent-neglected as defined in § 9-27-
 18 303(17);

19 (B) Child is dependent as defined in the Arkansas Juvenile
 20 Code of 1989, § 9-27-301 et seq.; or

21 (C) Circumstances or conditions of the child are such that
 22 continuing in his or her place of residence or in the care and custody of the
 23 parent, guardian, custodian, or caretaker presents an immediate danger of
 24 severe maltreatment.

25 (2)(A) ~~However, Except as provided in subdivision (a)(2)(B) of~~
 26 this section, such the protective custody shall not exceed seventy-two (72)
 27 hours ~~except in the event that unless~~ the expiration of seventy-two (72)
 28 hours falls on a weekend or holiday, in which case protective custody may be
 29 extended through the next business day following the weekend or holiday.

30 (B) A sheriff or a chief of police may take a child into
 31 protective custody and may place a child in custody under this section with a
 32 foster parent not to exceed seventy-two (72) hours if:

33 (i) The circumstances are as provided under
 34 subdivision (a)(1) of this section;

35 (ii) The foster parent is personally well-known to
 36 the sheriff or the chief of police; and

1 (iii) The sheriff or chief of police has:

2 (a) Determined that the foster parent's home
3 is safe and provides adequate accommodations for the child; and

4 (b) Performed a criminal record and child
5 maltreatment check on the foster parent as required under § 9-28-409.

6 (C) If a sheriff or a chief of police takes a child into
7 protective custody under subdivision (a)(2)(B) of this section, the sheriff
8 or chief of police shall present documentation of the efforts to contact the
9 Division of Children and Family Services of the Department of Health and
10 Human Services through the existing protocols for emergency child custody.

11
12 SECTION 20. Arkansas Code Title 12, Chapter 12, Subchapter 5 is
13 amended to add an additional section to read as follows:

14 12-12-520. Emergency shelters.

15 (a) The Department of Health and Human Services shall create, staff,
16 and maintain emergency shelters for children who are taken into department
17 custody.

18 (b) An emergency shelter shall take custody as soon as is practicable
19 after a child is taken into custody by a sheriff or a chief of police under §
20 12-12-516.

21
22 SECTION 21. Arkansas Code Title 16, Chapter 40, Subchapter 1 is
23 amended to add an additional section to read as follows:

24 16-40-106. Electronic testimony.

25 (a) Upon a motion by any party and for good cause shown, a court may
26 order that the testimony of any witness in a civil proceeding or an
27 administrative proceeding be taken by telephone or other two-way electronic
28 communication device.

29 (b)(1) A party that files a motion under this section shall give
30 written notice to all other parties to the proceeding at least thirty (30)
31 days before the trial or hearing at which the electronic testimony will be
32 offered.

33 (2) The court may shorten the time for notice under subdivision
34 (b)(1) of this section.

35 (c)(1) The court shall allow electronic testimony under this section
36 upon a showing of good cause.

1 (2) The court shall not allow the use of electronic testimony
2 if:

3 (A) The ability to evaluate the credibility and demeanor
4 of a witness in person is critical to the outcome of the proceeding and the
5 evaluation cannot be effectively made through the means of communication
6 proposed in the motion;

7 (B) The nature or quantity of exhibits or documents
8 introduced renders electronic testimony impractical;

9 (C) The court lacks equipment or facilities to accommodate
10 electronic testimony;

11 (D) The failure of the witness to appear personally will
12 result in substantial prejudice to a party to the proceeding; or

13 (E) Other circumstances exist that require the personal
14 appearance of the witness.

15 (d)(1) The court shall not prohibit the use of electronic testimony
16 under subdivision (c)(2)(C) of this section if the party that files the
17 motion establishes that alternative procedures or technologies are available
18 and acceptable to the court.

19 (2) However, the party that files the motion for electronic
20 testimony under this section shall pay all costs of alternative procedures or
21 technologies used for the electronic testimony.

22 (e) Factors that a court may consider to support a finding of good
23 cause for the purpose of a motion under this section include without
24 limitation:

25 (1) The possibility that the witness might be unavailable
26 because of age, infirmity, or mental or physical illness;

27 (2) The party that files the motion seeks to take the electronic
28 testimony of a witness whose attendance the party has been unable to secure
29 by process or other reasonable means;

30 (3) A personal appearance by the witness would be an undue
31 hardship on the witness or adversely impact upon the witness' employer; or

32 (4) Any other circumstance that constitutes good cause.

33
34 SECTION 22. Arkansas Code Title 16, Chapter 43 is amended to add an
35 additional subchapter to read as follows:

36 16-43-1201. Findings – Intent.

1 (a) The General Assembly finds that:

2 (1) Testifying in court is often stressful for children;

3 (2) Numerous studies document that children have very little, if
4 any, understanding of legal processes;

5 (3) The confusing, often intimidating environment of a courtroom
6 is exacerbated when judges and attorneys ask questions the child cannot
7 understand; and

8 (4) Some attorneys purposely ask questions that will confuse a
9 child witness.

10 (b) This subchapter is intended to protect children from confusing,
11 even abusive practices while testifying and is created in order to ensure
12 that testimony is fair and accurate.

13
14 16-43-1202. Child victim testimony.

15 When a child victim of abuse or neglect testifies, the court shall
16 consider:

17 (1) The capacity of the child to understand and participate in
18 the investigation and in the court proceedings and of the potential effect of
19 the proceedings on the child;

20 (2) Whether the oath that is required of a child should be
21 administered in a developmentally appropriate manner;

22 (3)(A) Requiring that questions be presented to the child in a
23 developmentally and linguistically appropriate manner.

24 (B) As a guideline for a child under eight (8) years of
25 age, the use of short sentences, one-syllable or two-syllable words, simple
26 grammar, and concrete, visualizable words that are linguistically
27 appropriate;

28 (4)(A) The influence on the child of sleep requirements,
29 including nap time, medications, and other developmentally appropriate
30 factors that affect the child's ability to testify.

31 (B) As a guideline for children under five (5) years of
32 age, the court should schedule:

33 (i) Morning testimony; and

34 (ii) Nap time for the child.

35 (C) As a guideline for a child of school age, the court
36 should schedule testimony during school hours;

1 (5) Whether a stuffed toy, a pet, or other animal might reduce
 2 the child’s anxiety during testimony;

3 (6)(A) Whether the presence of a support person might reduce the
 4 child’s anxiety during testimony.

5 (B) The court should consider how the location of the
 6 support person may assist the child in responding to direct and cross
 7 examination questions;

8 (7) Whether counsel should be cautioned to question the child in
 9 a manner that is neither intimidating nor frightening and not in a way that
 10 the child might interpret as an angry confrontation;

11 (8)(A) Whether the courtroom should be adjusted to meet the
 12 child’s needs.

13 (B) If the child cannot see over the witness box, the
 14 court should consider whether the child should be given a pillow, should be
 15 allowed to sit in front of the box, or should be allowed any other reasonable
 16 accommodation; and

17 (9) Whether the child should be allowed to use anatomical dolls
 18 during testimony.

19
 20 SECTION 23. Arkansas Code Title 17, Chapter 1 is amended to add an
 21 additional section to read as follows:

22 17-1-105. Notification of mandatory reporters.

23 Each board, commission, or other entity that licenses mandatory
 24 reporters of child abuse and neglect shall provide notice to each licensee
 25 concerning the online and web-based child abuse reporting program required
 26 under § 6-64-419.

27
 28 SECTION 24. Arkansas Code Title 20, Chapter 82, Subchapter 2 is
 29 amended to add and additional section to read as follows:

30 20-82-209. Multidisciplinary teams – Protocols created –
 31 Responsibilities.

32 (a) As used in this section, “multidisciplinary team” means a local
 33 team operating under a statewide model protocol developed by the Arkansas
 34 Child Abuse/Rape/Domestic Violence Commission governing the roles,
 35 responsibilities, and procedures of the multidisciplinary team.

36 (b) The commission shall:

1 (1)(A) Prepare and issue a statewide model protocol for local
 2 multidisciplinary teams regarding investigations, provision of safety and
 3 services, and prosecution of child abuse.

4 (B) The statewide model protocol shall describe
 5 coordinated investigation or coordinated services, or both, of state and
 6 local law enforcement, the Department of Health and Human Services, and
 7 medical, mental health, and children’s advocacy centers; and

8 (2) Review and approve a protocol prepared by each local
 9 multidisciplinary team.

10 (c) Each multidisciplinary team shall:

11 (1) Develop a protocol consistent with the statewide model
 12 protocol issued by the commission; and

13 (2) Submit the protocol to the commission for review and
 14 approval.

15
 16 SECTION 25. EMERGENCY CLAUSE. It is found and determined by the
 17 General Assembly of the State of Arkansas that children are at risk of abuse
 18 and neglect every day; that the present complex of programs to assist abused
 19 and neglected children leaves too many children living in threatening
 20 circumstances; and that this act is necessary because each day of delay
 21 increases the number of child abuse and child neglect incidents and increases
 22 the severity of ongoing abuse and neglect of children. Therefore, an
 23 emergency is declared to exist, and this act being immediately necessary for
 24 the preservation of the public peace, health, and safety shall become
 25 effective on:

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

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

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

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