

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 331

4
5 By: Senator R. Thompson
6 By: Representative E. Brown

For An Act To Be Entitled

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10 AN ACT TO AMEND GARRETT'S LAW RELATING TO CHILD
11 MALTREATMENT PREVENTION; AND FOR OTHER PURPOSES.

Subtitle

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14 AN ACT TO AMEND GARRETT'S LAW RELATING
15 TO CHILD MALTREATMENT PREVENTION.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. Arkansas Code § 12-12-503(12)(B), regarding the definition
21 of "neglect" as it is used in the Arkansas Child Maltreatment Act, is amended
22 to read as follows:

23 (B)(i) "Neglect" shall also include ~~the causing of a~~
24 ~~newborn child to be born with:~~

25 (a) ~~An~~ Causing a child to be born with an
26 illegal substance present in the child's bodily fluids or bodily substances
27 as a result of the pregnant mother's knowingly using an illegal substance
28 before the birth of the child; or

29 (b) ~~A health problem as a result of the~~
30 ~~mother's use before birth of an illegal substance.~~ At the time of the birth
31 of a child, the presence of an illegal substance in the mother's bodily
32 fluids or bodily substances as a result of the pregnant mother's knowingly
33 using an illegal substance before the birth of the child.

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



1 (iii) A test of the child's bodily fluids or bodily
2 substances may be used as evidence to establish neglect under subdivision
3 (12)(B)(i)(a) of this section.

4 (iv) A test of the mother's ~~or child's~~ bodily fluids
5 or bodily substances may be used as evidence to establish neglect under ~~this~~
6 subdivision (12)(B)(i)(b) of this section;

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8 SECTION 2. Arkansas Code § 12-12-507(f)(6), concerning reports of
9 neglect as defined by § 12-12-503(12)(B), is amended to read as follows:

10 (f)(6) The child abuse hotline shall accept a report of neglect as
11 defined under § 12-12-503(12)(B) only if the reporter is one (1) of the
12 following mandatory reporters and the reporter has reasonable cause to
13 suspect that a child has been subjected to neglect as defined under § 12-12-
14 503(12)(B):

- 15 (A) A licensed nurse;
- 16 (B) Any medical personnel who may be engaged in the
17 admission, examination, care, or treatment of persons;
- 18 (C) An osteopath;
- 19 (D) A physician;
- 20 (E) A resident intern; ~~or~~
- 21 (F) A surgeon; or
- 22 (G) A social worker in a hospital.

23
24 SECTION 3. Arkansas Code § 12-12-509 (a)(2)(B), concerning
25 investigations, is amended to read as follows:

26 (a)(2)(B) However, ~~if the notice contains an allegation of severe~~
27 ~~maltreatment, then~~ the investigation shall begin within twenty-four (24)
28 hours, if:

- 29 (i) The allegation is severe maltreatment; or
- 30 (ii) The allegation is neglect as defined in § 12-

31 12-503(12)(B).

32
33 SECTION 4. Arkansas Code § 12-12-512(a), concerning child maltreatment
34 investigative determination, is amended to read as follows:

35 (a) Upon completion of the investigation, the Department of Health and
36 Human Services shall determine that the allegations of child maltreatment

1 are:

2 (1)(A)(i) Unsubstantiated.

3 (ii) This determination shall be entered when the
4 allegation is not supported by a preponderance of the evidence.

5 (B)(i) An unsubstantiated report shall be confidential and
6 shall be disclosed only to:

7 (a) The prosecutor;

8 (b) A subject of the report;

9 (c) A court if the information in the record
10 is necessary for a determination of an issue before the court;

11 (d) Individual federal and state senators and
12 representatives and their staff members, but no disclosure may be made to any
13 committee or legislative body;

14 (e) Law enforcement agencies;

15 (f) Any appropriate licensing or registering
16 authority; and

17 (g) Adult protective services.

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

21 (2)(A)(i) True.

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

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

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

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

36 (b) The offender is an underaged juvenile

1 aggressor; or

2 (c) The report was founded for neglect as
3 defined in § 12-12-503(12)(B).

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