

State of Arkansas  
86th General Assembly  
Regular Session, 2007

A Bill  
SENATE BILL 331

By: Senator R. Thompson By: Representative E. Brown

**For An Act To Be Entitled**  
AN ACT TO AMEND **§ ARRETT'S LAW** RELATING TO CHILD MALTREATMENT PREVENTION; AND FOR OTHER PURPOSES.

**Subtitle**  
AN ACT TO AMEND **§ ARRETT'S LAW** RELATING  
TO CHILD MALTREATMENT PREVENTION.

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

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

- (B)(i) "Neglect" shall also include ~~the causing of a newborn child to be born with:~~
- (a) ~~An~~ **Causing a child to be born with** an illegal substance present in the child's bodily fluids or bodily substances as a result of the pregnant mother's knowingly using an illegal substance before the birth of the child; or
  - (b) ~~A health problem as a result of the mother's use before birth of an illegal substance.~~ **At the time of the birth of a child, the presence of an illegal substance in the mother's bodily fluids or bodily substances as a result of the pregnant mother's knowingly using an illegal substance before the birth of the child.**
  - (ii) As used in this subdivision (12)(B), "illegal substance" means a drug that is prohibited to be used or possessed without a prescription under the Arkansas Criminal Code, § 5-1-101 et seq.
  - (iii) A test of the child's bodily fluids or bodily substances may be used as evidence to establish neglect under subdivision (12)(B)(i)(a) of this section.
  - (iv) A test of the mother's ~~or child's~~ bodily fluids or bodily substances may be used as evidence to establish neglect under ~~this~~ subdivision (12)(B)(i)(b) **of this section**.

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

- (f)(6) The child abuse hotline shall accept a report of neglect as defined under § 12-12-503(12)(B) only if the reporter is one (1) of the following mandatory reporters and the reporter has reasonable cause to suspect that a child has been subjected to neglect as defined under § 12-12-503(12)(B):
- (A) A licensed nurse;
  - (B) Any medical personnel who may be engaged in the admission, examination, care, or treatment of persons;
  - (C) An osteopath;
  - (D) A physician;
  - (E) A resident intern; ~~or~~
  - (F) A surgeon; ~~or~~
  - (G) **A social worker in a hospital.**

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

- (a)(2)(B) However, ~~if the notice contains an allegation of severe maltreatment, then~~ the investigation shall begin within twenty-four (24) hours: ~~if:~~
- (i) ~~The allegation is severe maltreatment; or~~
  - (ii) ~~The allegation is neglect as defined in § 12-12-503(12)(B).~~

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

- (a) Upon completion of the investigation, the Department of Health and Human Services shall determine that the allegations of child maltreatment are:
- (1)(A)(i) Unsubstantiated.
    - (ii) This determination shall be entered when the allegation is not supported by a preponderance of the evidence.
  - (B)(i) An unsubstantiated report shall be confidential and shall be disclosed only to:
    - (a) The prosecutor;
    - (b) A subject of the report;
    - (c) A court if the information in the record is necessary for a determination of an issue before the court;
    - (d) Individual federal and state senators and representatives and their staff members, but no disclosure may be made to any committee or legislative body;
    - (e) **Law** enforcement agencies;
    - (f) Any appropriate licensing or registering authority; and
    - (g) Adult protective services.
  - (ii) Any person or agency to whom disclosure is made shall not disclose to any other person a report or other information obtained pursuant to subdivision (a)(1)(B)(i) of this section; or
- (2)(A)(i) True.
- (ii)(a) A true determination shall be entered when the allegation is supported by a preponderance of the evidence.
    - (b) However, for any act or omission of maltreatment which would be a criminal offense or an act of delinquency, any defense or affirmative defense that would be applicable to the criminal offense or delinquent act is also cognizable in a maltreatment proceeding.
  - (B)(i) A determination of true but exempted, which means that the offender's name shall not be placed in the central registry, shall be entered if:
    - (a) A parent practicing his or her religious beliefs does not, for that reason alone, provide medical treatment for a child, but in lieu of treatment the child is being furnished with treatment by spiritual means alone, through prayer, in accordance with a recognized religious method of healing by an accredited practitioner; ~~or~~
    - (b) The offender is an underaged juvenile aggressor; ~~or~~
    - (c) ~~The report was founded for neglect as defined in § 12-12-503(12)(B).~~

**APPROVED: 3/16/2007**

