

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019

A Bill

SENATE BILL

4
5 By: Senator A. Clark
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For An Act To Be Entitled

8 AN ACT CONCERNING DRUG TESTING UNDER THE CHILD
9 MALTREATMENT ACT; CONCERNING CHILD MALTREATMENT
10 INVESTIGATION REPORTS; TO AMEND THE DEFINITION OF
11 "NEGLECT"; TO AMEND THE LAW CONCERNING INVESTIGATIVE
12 DETERMINATIONS; AND FOR OTHER PURPOSES.
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Subtitle

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15 CONCERNING DRUG TESTING UNDER THE CHILD
16 MALTREATMENT ACT; CONCERNING CHILD
17 MALTREATMENT INVESTIGATION REPORTS; TO
18 AMEND THE DEFINITION OF "NEGLECT"; AND TO
19 AMEND THE LAW CONCERNING INVESTIGATIVE
20 DETERMINATIONS.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 12-18-103(14), concerning the definition of
27 "neglect" under the Child Maltreatment Act, is amended to add an additional
28 subdivision to read as follows:

29 (C) "Neglect" does not include the:

30 (i) Refusal of a parent, guardian, custodian, or foster parent
31 to consent or submit to a drug test that is not ordered by a court; or

32 (ii) Admission of past drug use by a parent, guardian,
33 custodian, foster parent;
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35 SECTION 2. Arkansas Code Title 12, Chapter 18, Subchapter 6, is
36 amended to add an additional section to read as follows:



1 12-18-624. Drug testing notice.

2 (a) The Department of Human Services shall not drug test an alleged
3 offender during a child maltreatment investigation unless the:

4 (1) Drug test is ordered by the court under § 9-13-109; or

5 (2) Department obtains the alleged offender's written consent to
6 submit to a drug test.

7 (b)(1) The department shall provide a form for the written consent to
8 submit to a drug test to the alleged offender from whom a drug test is
9 sought.

10 (2)(A) The department may petition the court for an order
11 requiring the alleged offender to submit to a drug test if the alleged
12 offender does not sign the form provided to him or her under subdivision
13 (b)(1) of this section.

14 (B) A petition for a court order under subdivision
15 (b)(2)(A) of this section shall state the reasons for the department's need
16 to drug test the alleged offender.

17 (c)(1) An alleged offender's refusal to consent to the department's
18 request for a drug test under this section is an insufficient basis for the
19 removal of a child from the custody of the alleged offender.

20 (2) An alleged offender's refusal to consent or submit to a drug
21 test that is not ordered by the court does not prohibit the removal of a
22 child from the custody of the alleged offender on another basis that
23 constitutes an immediate threat of harm to the child.

24 (d) An alleged offender's failure to submit to a drug test ordered by
25 the court is a sufficient basis for the removal of a child from the custody
26 of the alleged offender.

27 (e) The result of a drug test performed under this section is
28 inadmissible in court if the department fails to follow the department's
29 policy in the administration of the drug test.

30
31 SECTION 3. Arkansas Code § 12-18-701(f), concerning the admissibility
32 of a child maltreatment investigation report in a proceeding related to child
33 maltreatment, is repealed.

34 ~~(f) The report, exclusive of information identifying the person making~~
35 ~~the notification, shall be admissible in evidence in any proceeding related~~
36 ~~to child maltreatment.~~

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2 SECTION 4. Arkansas Code § 12-18-702 is amended to read as follows:
3 12-18-702. Investigative determination.

4 Upon completion of an investigation under this chapter, the Department
5 of Human Services and the Department of Arkansas State Police shall determine
6 whether the allegations of child maltreatment are:

7 (1)(A) Unsubstantiated.

8 (B) An unsubstantiated determination shall be entered when
9 the allegation is not supported by a preponderance of the evidence~~+~~.

10 (C) An unsubstantiated finding shall be removed from the
11 Children's Reporting and Information System after three (3) years from the
12 date on which the unsubstantiated finding is entered into the system.

13 (D) An unsubstantiated finding shall not be included in a
14 petition for emergency custody or an affidavit required under § 9-27-311;

15 (2)(A) True.

16 (B) A true determination shall be entered when the
17 allegation is supported by a preponderance of the evidence.

18 (C) A determination of true but exempted, which means that
19 the offender's name shall not be placed in the Child Maltreatment Central
20 Registry, shall be entered if:

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

26 (ii) The offender is an underaged juvenile offender;

27 (iii) The report was true for neglect as defined
28 under § 12-18-103(14)(B); or

29 (iv) The offender is a juvenile less than fourteen
30 (14) years of age; ~~or~~

31 (3)(A) Inactive.

32 (B) If the investigation cannot be completed, the
33 investigation shall be determined incomplete and placed in inactive status~~+~~;
34 or

35 (4)(A) Not true.

36 (B) A not true determination shall be entered if it is

1 clear from the evidence that the allegation did not occur.

2 (C)(i) A not true determination shall be removed
3 immediately from the system.

4 (ii) A not true determination shall not be included
5 on a child welfare report unless it is included for data purposes relating to
6 calls made to the Child Abuse Hotline or the investigations of reports of
7 child maltreatment.

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