

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: S3/21/17
A Bill

SENATE BILL 307

5 By: Senator A. Clark
6 By: Representative Hammer
7

For An Act To Be Entitled

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

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

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

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

33 (ii) Admission of past drug use by a parent, guardian,
34 custodian, foster parent;
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36 SECTION 2. Arkansas Code Title 12, Chapter 18, Subchapter 6, is



1 amended to add an additional section to read as follows:

2 12-18-624. Drug testing notice.

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~to child maltreatment.~~

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

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

8 (1)(A) Unsubstantiated.

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

11 (C) An unsubstantiated determination shall not be included
12 in a petition for emergency custody or an affidavit required under § 9-27-
13 311;

14 (2)(A) True.

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

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

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

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

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

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

30 (3)(A) Inactive.

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

34 (4)(A) Not true.

35 (B) A not true determination shall be entered if it is
36 clear from the evidence that the allegation did not occur.

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

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

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8 */s/A. Clark*
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