

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 13

By: Senator A. Clark

For An Act To Be Entitled

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

Subtitle

CONCERNING DRUG TESTING UNDER THE CHILD MALTREATMENT ACT; CONCERNING CHILD MALTREATMENT INVESTIGATION REPORTS; TO AMEND THE DEFINITION OF "NEGLECT"; AND TO AMEND THE LAW CONCERNING INVESTIGATIVE DETERMINATIONS.

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

SECTION 1. Arkansas Code § 12-18-103(14), concerning the definition of "neglect" under the Child Maltreatment Act, is amended to add an additional subdivision to read as follows:

(C) "Neglect" does not include the:

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

(ii) Admission of past drug use by a parent, guardian, custodian, foster parent;

SECTION 2. Arkansas Code Title 12, Chapter 18, Subchapter 6, is amended to add an additional section to read as follows:



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12-18-624. Drug testing notice.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1)(A) Unsubstantiated.

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

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

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

(2)(A) True.

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

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

(i) 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;

(ii) The offender is an underaged juvenile offender;

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

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

(3)(A) Inactive.

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

(4)(A) Not true.

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

clear from the evidence that the allegation did not occur.

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

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