

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

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 347

By: Senator Hester
By: Representative C. Fite

For An Act To Be Entitled

AN ACT TO PROMOTE CHILD SAFETY WHILE REDUCING CHILD WELFARE AGENCY INVOLVEMENT IN THE LIVES OF ARKANSAS RESIDENTS; TO AMEND AND UPDATE THE LAW REGARDING DEPENDENCY-NEGLECT AND CHILD MALTREATMENT; TO AMEND AND UPDATE DEFINITIONS UNDER THE ARKANSAS JUVENILE CODE OF 1989 AND THE CHILD MALTREATMENT ACT; TO AMEND INVESTIGATION ACCEPTANCE, ASSIGNMENT, AND NOTICE PROVISIONS UNDER THE CHILD MALTREATMENT ACT; TO AMEND LANGUAGE REGARDING PROTECTION PLANS IN THE CHILD MALTREATMENT ACT; AND FOR OTHER PURPOSES.

Subtitle

TO PROMOTE CHILD SAFETY WHILE REDUCING CHILD WELFARE AGENCY INVOLVEMENT IN THE LIVES OF ARKANSAS RESIDENTS.

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

SECTION 1. Arkansas Code § 9-27-303(37)(A)(iii)-(viii), concerning the definition of "neglect" under the Arkansas Juvenile Code of 1989, are amended to read as follows:

(iii) Failure to take reasonable action to protect the juvenile from abandonment, abuse, sexual abuse, sexual exploitation, or neglect, or parental unfitness when the existence of this condition was known or should have been known, and, if for abuse or neglect, the failure to take reasonable action to protect the juvenile causes the juvenile serious bodily



injury;

(iv) Failure or irremediable inability to provide for the essential and necessary physical, mental, or emotional needs of the juvenile, including failure to provide a shelter that does not pose a risk to the health or safety of the juvenile;

(v) Failure to provide for the juvenile’s care and maintenance, proper or necessary support, or medical, surgical, or other necessary care;

(vi) Failure, although able, to assume responsibility for the care and custody of the juvenile or to participate in a plan to assume the responsibility;

(vii) Failure to appropriately supervise the juvenile that results in the juvenile’s being left alone:

(a) At an inappropriate age, creating a dangerous situation ~~or a situation that puts the juvenile at risk of harm;~~ or

(b) In inappropriate circumstances, creating a dangerous situation ~~or a situation that puts the juvenile at risk of harm;~~

(viii) Failure to appropriately supervise the juvenile that results in the juvenile being placed in+

~~(a) Inappropriate~~ inappropriate circumstances, creating a dangerous situation; or

~~(b) A situation that puts the juvenile at risk of harm; or~~

SECTION 2. Arkansas Code § 9-27-303(53)(D), concerning acts that are considered sexual abuse under the Arkansas Juvenile Code of 1989 when the act is performed by a caretaker to a person younger than eighteen (18) years of age, is amended to add an additional subdivision to read as follows:

(vii) Solicitation of sexual intercourse, deviant sexual activity, or sexual contact;

SECTION 3. Arkansas Code § 9-27-303(53), concerning the definition of "sexual abuse" under the Arkansas Juvenile Code of 1989, is amended to add an additional subdivision to read as follows:

(G) Grooming, by a:

(i) Person eighteen (18) years of age or older to a

person not his or her spouse who is younger than fourteen (14) years of age;
or

(ii) Caretaker to a person younger than fourteen
(14) years of age;

SECTION 4. Arkansas Code § 9-27-303, concerning the definitions under the Arkansas Juvenile Code of 1989, is amended to add an additional subdivision to read as follows:

(67)(A) "Grooming" means to knowingly disseminate to a child thirteen (13) years of age or younger with or without consideration a visual or print medium depicting sexually explicit content with the purpose to entice, induce, or groom the child to engage in the following with a person:

- (i) Sexual intercourse;
- (ii) Sexually explicit conduct; or
- (iii) Deviant sexual activity.

(B) As used in subdivision (67)(A) of this section, "disseminate" means to allow to view, expose, furnish, present, sell, or otherwise distribute, including on an electronic device or virtual platform, and is not limited to an act that takes place in the physical presence of a child.

(C) It is an affirmative defense to an allegation of grooming that the actor is not more than three (3) years older than the victim.

SECTION 5. Arkansas Code § 12-18-103(14)(A)(iii)-(viii), concerning the definition of "neglect" under the Child Maltreatment Act, are amended to read as follows:

(iii) Failure to take reasonable action to protect the child from abandonment, abuse, sexual abuse, sexual exploitation, or neglect, ~~or parental unfitness~~ when the existence of the condition was known or should have been known, and, if for abuse or neglect, the failure to take reasonable action to protect the juvenile causes the juvenile serious bodily injury;

(iv) Failure or irremediable inability to provide for the essential and necessary physical, mental, or emotional needs of the child, including the failure to provide a shelter that does not pose a risk

to the health or safety of the child;

(v) Failure to provide for the child's care and maintenance, proper or necessary support, or medical, surgical, or other necessary care;

(vi) Failure, although able, to assume responsibility for the care and custody of the child or to participate in a plan to assume such responsibility;

(vii) Failure to appropriately supervise the child that results in the child's being left alone:

(a) At an inappropriate age creating a dangerous situation ~~or a situation that puts the child at risk of harm~~; or

(b) In inappropriate circumstances creating a dangerous situation ~~or a situation that puts the child at risk of harm~~;

(viii) Failure to appropriately supervise the child that results in the child's being placed in+

~~(a) Inappropriate~~ inappropriate circumstances creating a dangerous situation; ~~or~~

~~(b) A situation that puts the child at risk of harm~~;

SECTION 6. Arkansas Code § 12-18-103(20), concerning the definition of "sexual abuse" under the Child Maltreatment Act, is amended to add an additional subdivision to read as follows:

(G) Grooming, by a:

(i) Person eighteen (18) years of age or older to a person not his or her spouse who is younger than fourteen (14) years of age;
or

(ii) Caretaker to a person younger than fourteen (14) years of age;

SECTION 7. Arkansas Code § 12-18-103, concerning the definitions under the Child Maltreatment Act, is amended to add an additional subdivision to read as follows:

(32)(A) "Grooming" means to knowingly disseminate to a child thirteen (13) years of age or younger with or without consideration a visual or print medium depicting sexually explicit content with the purpose to

entice, induce, or groom the child to engage in the following with a person:

- (i) Sexual intercourse;
- (ii) Sexually explicit conduct; or
- (iii) Deviate sexual activity.

(B) As used in subdivision (32)(A) of this section, "disseminate" means to allow to view, expose, furnish, present, sell, or otherwise distribute, including on an electronic device or virtual platform, and is not limited to an act that takes place in the physical presence of a child.

(C) It is an affirmative defense to an allegation of grooming that the actor is not more than three (3) years older than the victim.

SECTION 8. Arkansas Code § 12-18-304(d), concerning acceptance of a report of child maltreatment under the Child Maltreatment Act involving a bruise to a child even if at the time of the report the bruise is not visible, is repealed.

~~(d)(1) The Child Abuse Hotline shall accept a report of child maltreatment involving a bruise to a child even if at the time of the report the bruise is not visible if the bruising occurred:~~

- ~~(A) Within the past fourteen (14) days; and~~
- ~~(B) As a result of child maltreatment as described under~~

~~subsections (a) (c) of this section.~~

~~(2) However, the report under this subsection shall not be determined to be true unless the existence of the bruise is corroborated.~~

SECTION 9. Arkansas Code § 12-18-304, concerning what reports qualify for acceptance by the Child Abuse Hotline, is amended to add an additional subsection to read as follows:

(h) The Child Abuse Hotline shall accept a report from a medical provider concerning a child eleven (11) years of age or younger if there is documented evidence of the child being pregnant or having a sexually transmitted disease, despite insufficient evidence of child maltreatment.

SECTION 10. Arkansas Code § 12-18-506(a), concerning notice of a report made to the Child Abuse Hotline when the alleged offender is engaged

in certain activities or employment, is amended to add an additional subdivision to read as follows:

(5) The school the alleged offender is enrolled in, if the alleged offender is eighteen (18) years of age or older.

SECTION 11. Arkansas Code § 12-18-601(a)(1), concerning procedures followed after the Child Abuse Hotline's acceptance of a report of child maltreatment under the Child Maltreatment Act, is amended to read as follows:

(a)(1) If a report of child maltreatment is accepted by the Child Abuse Hotline, an investigation shall be conducted under procedures established by the Department of Human Services unless the report is accepted for triage under subdivision (a)(2)(C) of this section.

SECTION 12. Arkansas Code § 12-18-601(a)(2)(B)(ii), concerning the circumstances in which a report of child maltreatment is assigned to the Division of Arkansas State Police under the Child Maltreatment Act, is amended to read as follows:

(ii) ~~A person,~~ An agency, corporation, or partnership that provides substitute care for a child who is in the custody of the Department of Human Services; or

SECTION 13. Arkansas Code § 12-18-601(b)(1)(A), concerning the initiation of an investigation under the Child Maltreatment Act after the assignment of a report of child maltreatment, is amended to read as follows:

(b)(1)(A) After the assignment of a report of child maltreatment, the investigating agency shall initiate an investigation as provided under this subchapter or follow triage procedures under subdivision (a)(2)(C) of this section.

SECTION 14. Arkansas Code § 12-18-601(c)(1), concerning the development and implementation of triage procedures for accepting and documenting reports of child maltreatment of a child not at risk of immediate harm under the Child Maltreatment Act, is amended to read as follows:

(c)(1) The Department of Human Services and the Division of Arkansas State Police may develop and implement triage procedures for accepting ~~and,~~ documenting, and assigning reports of child maltreatment ~~of a child not at~~

~~risk of imminent harm.~~

SECTION 15. Arkansas Code § 12-18-710(e)(1), concerning the release of information on a true investigative determination pending due process to the alleged offender under the Child Maltreatment Act, is amended to read as follows:

(1) The alleged offender and any person, agency, or potential employer with the written consent of the alleged offender;

SECTION 16. Arkansas Code § 12-18-807(a), concerning the filing of a certified copy of a judicial determination with the Office of Appeals and Hearings, is amended to read as follows:

(a) If a court of competent jurisdiction adjudicates a question that is an issue to be determined by the Office of Appeals and Hearings ~~of the Department of Human Services~~, the prevailing party to the judicial adjudication who is also a party to the administrative adjudication shall file a ~~certified~~ copy of the judicial adjudication with the office.

SECTION 17. Arkansas Code § 12-18-1001(d)(1) and (2), concerning the implementation of a protection plan under the Child Maltreatment Act, are amended to read as follows:

(d)(1) If the department assesses the health and safety of a child and determines that the child cannot safely remain in the care, custody, or control of the legal parent, guardian, or custodian without the implementation of ~~a protection plan~~ an immediate safety plan, the department may implement ~~a protection plan~~ an immediate safety plan that allows the child to remain in his or her place of residence and includes services to address the safety of the child.

(2)(A) If ~~a protection plan~~ an immediate safety plan is implemented under subdivision (d)(1) of this section, then the department shall reassess the health and safety of the child within thirty (30) days of the date on which the ~~protection plan~~ immediate safety plan was implemented.

(B) If the department determines that a substantial risk of serious harm to the health and safety of the child remains after a reassessment under subdivision (d)(2)(A) of this section is performed, then the department shall file a petition for dependency-neglect.