

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

State of Arkansas
95th General Assembly
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As Engrossed: S3/12/25 S3/20/25

A Bill

SENATE BILL 326

By: Senator A. Clark

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS JUVENILE CODE OF 1989;
TO AMEND THE CHILD MALTREATMENT ACT; TO MODIFY
GUIDELINES FOR A JUDGMENT MADE IN THE BEST INTEREST
OF A CHILD; TO AMEND PROCEDURES AROUND REPORTING IN
CHILD MALTREATMENT, DEPENDENCY-NEGLECT, AND FAMILY-
IN-NEED-OF-SERVICES MATTERS; TO AMEND PROCEDURES
REGARDING SCREENINGS FOR CHILD MALTREATMENT; AND FOR
OTHER PURPOSES.

Subtitle

TO AMEND THE ARKANSAS JUVENILE CODE OF
1989 AND THE CHILD MALTREATMENT ACT; TO
MODIFY GUIDELINES FOR A JUDGMENT MADE IN
THE BEST INTEREST OF A CHILD; AND TO
AMEND PROCEDURES AROUND REPORTING CHILD
MALTREATMENT.

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

SECTION 1. Arkansas Code § 9-27-102 is amended to read as follows:

9-27-102. Best interest of child.

(a)(1) The General Assembly recognizes; ~~that~~

(A) The importance of family and child protection;

(B) That children are defenseless; ~~and that~~

(C) That there is no greater moral obligation upon the
General Assembly than to provide for the protection of our children; ~~and that~~

(D) That our child welfare system needs to be strengthened



by establishing a clear policy of the state that the best interests of the children must be paramount and shall have precedence at every stage of juvenile court proceedings;

(E) That when a child can safely remain with his or her family, that child should remain with his or her family;

(F) If a child is removed from his or her family for a single act, government intervention should be temporary; and

(G) A child should return to his or her family when it is safe for the child to do so.

(2) The best interest of the child shall: be

(A) Be the standard for juvenile court determinations as to whether a child should be: reunited

(i) Reunited with his or her family; or removed

(ii) Removed from or remain in a home wherein the child has been abused or neglected; and

(B) Include consideration of the following without limitation:

(i) Family integrity;

(ii) The health and safety of the child;

(iii) Timely permanency decisions; and

(iv) Ensuring that the child will become a self-sufficient adult.

SECTION 2. Arkansas Code § 9-27-303(37), concerning the definition of "neglect" under the Arkansas Juvenile Code of 1989, is amended to read as follows:

(37)(A) "Neglect" means ~~those~~ acts or omissions of a parent, guardian, custodian, foster parent, or any person who is entrusted with the juvenile's care by a parent, custodian, guardian, or foster parent, including, ~~but not limited to,~~ without limitation an agent or employee of a public or private residential home, childcare facility, public or private school, or any person legally responsible under state law for the juvenile's welfare, that constitute:

(i) Failure or refusal to prevent the abuse of the juvenile when the person knows or has reasonable cause to know the juvenile is or has been abused;

(ii) Failure or refusal to provide the necessary food, clothing, shelter, or medical treatment necessary for the juvenile's well-being, except when the failure or refusal is caused primarily by the financial inability of the person legally responsible and no services for relief have been offered;

(iii) Failure to take reasonable action to protect the juvenile from abandonment, abuse, sexual abuse, sexual exploitation, or neglect 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, or 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, or 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

(b) In inappropriate circumstances, creating a dangerous situation;

(viii) Failure to appropriately supervise the juvenile that results in the juvenile being placed in inappropriate circumstances, creating a dangerous situation; or

(ix)(a) Failure to ensure a child between six (6) years of age and seventeen (17) years of age is enrolled in school or is being legally ~~home-schooled~~ homeschooled; or

(b) As a result of an act or omission by the parent, custodian, foster parent, or guardian of a child, the child is habitually and without justification absent from school.

(B)(i) "Neglect" shall also *include*:

(a) *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) *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) *For the purposes of this subdivision (37)(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 (37)(B)(i)(a) of this section.*

(iv) *A test of the mother's bodily fluids or bodily substances or the child's bodily fluids or bodily substances may be used as evidence to establish neglect under subdivision (37)(B)(i)(b) of this section.*

SECTION 3. *Arkansas Code § 9-27-310(b), concerning persons who may file a petition for dependency-neglect or family in need of services, is amended to read as follows:*

(b)(1) The prosecuting attorney shall have sole authority to file a delinquency petition or petition for revocation of probation.

(2) Only a law enforcement officer, prosecuting attorney, the Department of Human Services or its designee, or a dependency-neglect attorney ad litem employed by or contracting with the Administrative Office of the Courts may file a dependency-neglect petition seeking ex parte emergency relief.

(3) Petitions for dependency-neglect or family in need of services may be filed by:

(A) ~~Any adult~~ Those permitted to file for ex parte relief under subdivision (b)(2) of this section; or

(B) ~~Any member ten (10) years of age or older of the immediate family alleged to be in need of services~~ A relative; or

(C) An individual in a familial relationship with the

child.

(4) *Petitions for paternity establishment may be filed by:*

(A) *The biological mother;*

(B) *A putative father;*

(C) *A juvenile; or*

(D) *The Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration.*

(5) *Petitions for family in need of services may be filed by:*

(A) *Those permitted to file a petition for dependency-neglect;*

(B) *A counselor, school principal, or the designee of a school principal; or*

(C) *A juvenile ten (10) years of age or older who alleges that his or her family is in need of services.*

SECTION 4. Arkansas Code § 9-27-310 is amended to add an additional subsection to read as follows:

(h)(1) *In a family in need of services matter, a judge of a circuit court may initiate a seventy-two-hour hold of a child if there is an immediate danger to the child's health and safety.*

(2) *If protective custody is taken:*

(A) *The court shall appoint dependency-neglect attorney ad litem for the child or children under § 12-18-1001; and*

(B) *An attorney ad litem shall:*

(i) *Review all relevant information from the juvenile proceeding regarding the child or children for whom protective custody was taken; and*

(ii) *File any pleadings that are necessary to protect the health, safety, or welfare of the child or children under subsection (g) of this section.*

SECTION 5. Arkansas Code § 9-27-332(a)(2), concerning possible dispositions of a family in need of services case, is amended to read as follows:

(2)(A) If it is in the best interest of the juvenile, transfer custody of juvenile family members to another licensed agency responsible for

the care of juveniles or to a relative or other individual; or

~~(B) If it is in the best interest of the juvenile and because of acts or omissions by the parent, guardian, or custodian, removal is necessary to protect the juvenile's health and safety, transfer custody to the department~~ Under § 12-18-1001, may initiate a seventy-two-hour hold if there is an immediate danger to the child's health and safety.

~~(C)~~ A juvenile in the custody of the department is "awaiting foster care placement", as that term is used in the definition of "homeless children and youths" in the McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11434a(2), if the juvenile:

(i) Is placed in a shelter, facility, or other short-term placement with a plan of moving the juvenile within ninety (90) days;

(ii) Is transferred to an emergency placement to protect the juvenile's health or welfare;

(iii) Is placed in a provisional foster home as defined by § 9-28-402;

(iv) Has experienced three (3) or more placements within a twelve-month period; or

(v) Is placed in a regular foster home or other placement that is not directly related to the permanency goal identified in the case plan required under § 9-28-111;

SECTION 6. Arkansas Code § 9-28-104 is amended to read as follows:
9-28-104. Best interest of ~~the~~ child.

(a) The General Assembly recognizes: ~~that~~

(1) The importance of family and child protection;

(2) That children are defenseless; ~~and that~~

(3) That there is no greater moral obligation upon the General Assembly than to provide for the protection of our children; ~~and that~~

(4) That our child welfare system needs to be strengthened by establishing a clear policy of the state that the best interests of the children must be paramount and shall have precedence at every stage of juvenile court proceedings;

(5) That when a child can safely remain with his or her family, that child should remain with his or her family;

(6) If a child is removed from his or her family, government intervention should be temporary; and

(7) A child should return to his or her family when it is safe for the child to do so.

(b) The best interest of the child shall ~~be~~

(1) Be the standard for recommendations made by employees of the Department of Human Services as to whether a child should be ~~reunited~~

(A) Reunited with his or her family; or ~~removed~~

(B) Removed from or remain in a home wherein the child has been abused or neglected; and

(2) Include consideration of the following without limitation:

(i) Family integrity;

(ii) The health and safety of the child;

(iii) Timely permanency decisions; and

(iv) Ensuring that the child will become a self-sufficient adult.

SECTION 7. Arkansas Code § 12-18-103(14)(A), concerning the definition of "neglect" under the Child Maltreatment Act, is amended to read as follows:

(14)(A) "Neglect" means ~~those~~ acts or omissions of a parent, guardian, custodian, foster parent, or any person who is entrusted with the child's care by a parent, custodian, guardian, or foster parent, ~~including, but not limited to,~~ without limitation an agent or employee of a public or private residential home, childcare facility, public or private school, or any person legally responsible under state law for the child's welfare, but excluding the spouse of a minor and the parents of the married minor, which constitute:

(i) Failure or refusal to prevent the abuse of the child when the person knows or has reasonable cause to know the child is or has been abused;

(ii) Failure or refusal to provide necessary food, clothing, shelter, or medical treatment necessary for the child's well-being, except when the failure or refusal is caused primarily by the financial inability of the person legally responsible and no services for relief have been offered;

(iii) Failure to take reasonable action to protect

the child from abandonment, abuse, sexual abuse, sexual exploitation, or neglect 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, or 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, or 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

(b) In inappropriate circumstances creating a dangerous situation;

(viii) Failure to appropriately supervise the child that results in the child's being placed in inappropriate circumstances creating a dangerous situation;

(ix) Failure to ensure a child between six (6) years of age and seventeen (17) years of age is enrolled in school or is being legally homeschooled; or

(x) An act or omission by the parent, custodian, or guardian of the child that results in the child's being habitually and without justification absent from school.

SECTION 8. Arkansas Code § 12-18-303(a), concerning minimum requirements for a report of alleged child maltreatment to be accepted by the Child Abuse Hotline under the Child Maltreatment Act, is amended to read as follows:

(a)(1) Except as otherwise provided in this section, the Child Abuse Hotline shall accept a report if:

~~(1)(A)~~ The report is of:

~~(A)(i)~~ An allegation of child maltreatment or suspected child maltreatment, that ~~if found to be true~~, would constitute child maltreatment as defined under this chapter;

~~(B)(ii)~~ The death of a child who died suddenly and unexpectedly; or

~~(C)(iii)~~ The death of a child reported by a coroner or county sheriff under § 20-15-502;

~~(2)(B)~~ Sufficient identifying information is provided to identify and locate the child or the child's family; and

~~(3)(C)~~ The child or the child's family is present in Arkansas or the incident occurred in Arkansas.

(2)(A) As a part of accepting a report under subdivision (a)(1) of this section, the Child Abuse Hotline shall evaluate whether there is a risk of harm to a child by the child's parent or caregiver using a standardized assessment tool that considers the following without limitation:

(i) Family history;

(ii) The age of the child;

(iii) The relationship of the reporter to the child;

and

(iv) The risk of harm posed to the child.

(B) The Child Abuse Hotline shall collect data from the standardized assessment tool and use the data to evaluate the consistency of screening decisions.

SECTION 9. Arkansas Code § 12-18-1001(a), concerning circumstances under which a child may be taken into custody without the consent of the parent or guardian, is amended to read as follows:

(a) A police officer, law enforcement, a juvenile division of circuit court judge during juvenile proceedings concerning the child or a sibling of the child, or a designated employee of the Department of Human Services may take a child into custody or any person in charge of a hospital or similar institution or any physician treating a child may keep that child in his or her custody without the consent of the parent or the guardian, whether or not additional medical treatment is required, if:

(1) The child is subjected to neglect as defined under 12-18-

103(14)(B) and the department assesses the family and determines that the health or physical well-being of the newborn and any other children, including siblings, under the custody or care of a custodian ~~the mother~~ are at substantial risk of serious harm such that ~~the children need to be removed from the custody or care of the mother~~ removal is necessary;

(2) The child is a dependent juvenile as defined in the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.; or

(3)(A) Circumstances or conditions of the child are such that continuing in his or her place of residence or in the care and custody of the parent, guardian, custodian, or caretaker presents an immediate danger to the health or physical well-being of the child.

(B) A child shall not be placed in protective custody under this section if:

(i) The child maltreatment allegation is for neglect as defined in § 12-18-103, and there is not an immediate danger to the health or physical well-being of the child;

(ii) There is not an immediate danger to the child and a risk of harm to the child can be mitigated with services and supports;
or

(iii) The sole basis of the placement in protective custody under this section is:

(a) Poor school attendance;

(b) That the parent, guardian, or custodian is unable to provide food, clothing, or shelter due to financial inability; or

(c) For the child to receive behavioral health or developmental disability services.

/s/A. Clark