

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

As Engrossed: S2/20/17 S3/21/17

# A Bill

SENATE BILL 305

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

## For An Act To Be Entitled

9 AN ACT TO AMEND THE DEFINITION OF "NEGLECT" AND THE  
10 LAW CONCERNING CLOSURES OF CHILD MALTREATMENT  
11 INVESTIGATIONS; TO MAKE CERTAIN ACTS OF A PARENT,  
12 GUARDIAN, CUSTODIAN, OR FOSTER PARENT NONCRIMINAL;  
13 AND FOR OTHER PURPOSES.  
14  
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## Subtitle

17 TO AMEND THE DEFINITION OF "NEGLECT" AND  
18 THE LAW CONCERNING CLOSURES OF CHILD  
19 MALTREATMENT INVESTIGATIONS; AND TO MAKE  
20 CERTAIN ACTS OF A PARENT, GUARDIAN,  
21 CUSTODIAN, OR FOSTER PARENT NONCRIMINAL.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. TEMPORARY LANGUAGE. DO NOT CODIFY. Legislative findings.

27 The General Assembly finds that:

28 (1) Everyone desires the safety of all children;

29 (2) A child raised under constant adult supervision misses  
30 opportunities for growth and, as a result, may end up stunted developmentally  
31 and physically;

32 (3) The alarming rise of obesity and diabetes in childhood is  
33 almost certainly linked to the insistence of parents and guardians on driving  
34 their children to school and activities instead of allowing their children to  
35 walk;

36 (4) As measured by incidences of mental health difficulties,



1 today's over-supervised youth experience more difficulties upon reaching  
2 adulthood than earlier generations;

3 (5) Earlier generations learned resilience by walking,  
4 bicycling, playing, helping out, and solving problems without constant adult  
5 intervention;

6 (6) Parents and guardians often are in the best position to  
7 weigh the risks and make decisions concerning the safety of children under  
8 their care, including where their children may go, with whom, and when; and

9 (7) The excessive investigation and prosecution of parents and  
10 guardians who have done nothing more than briefly and safely permit their  
11 children to remain unsupervised has introduced unnecessary governmental  
12 intrusion into the homes of families and diverted valuable public resources  
13 to inconsequential and trivial matters.

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15 SECTION 2. TEMPORARY LANGUAGE. DO NOT CODIFY. Legislative intent.

16 It is the intent of the General Assembly that this act:

17 (1) Protect and promote a parent or guardian's inherent right to  
18 raise his or her children; and

19 (2) Protect a parent or guardian's decision to grant his or her  
20 children unsupervised time to engage in activities that include without  
21 limitation playing outside, walking to school, bicycling, remaining briefly  
22 in a vehicle, and remaining at home.

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24 SECTION 3. Arkansas Code Title 5, Chapter 27, Subchapter 1, is amended  
25 to add an additional section to read as follows:

26 5-27-101. Noncriminal acts of parents, custodians, guardians, and  
27 foster parents.

28 An act of a parent, custodian, guardian, or foster parent described  
29 under § 12-18-103(14)(C) is not a criminal offense.

30  
31 SECTION 4. Arkansas Code § 12-18-103(14), concerning the definition of  
32 "neglect" under the Child Maltreatment Act, is amended to add an additional  
33 subdivision to read as follows:

34 (C) "Neglect" does not include a parent, custodian,  
35 guardian, or foster parent who permits his or her child to perform the  
36 following actions unsupervised if the child is of sufficient capacity to

1 avoid immediate danger and a significant risk of harm:

2 (i) Travel to and from school including without  
3 limitation traveling by walking, running, or bicycling;

4 (ii) Engage in outdoor play;

5 (iii) Remain for less than fifteen (15) minutes in a  
6 vehicle if the temperature inside the vehicle is not or will not become  
7 dangerously hot or cold; or

8 (iv) Remain at home before and after school if the  
9 parent, custodian, guardian, or foster parent:

10 (a) Returns home on the same day on which the  
11 parent, custodian, guardian, or foster parent gives the child permission to  
12 remain at home;

13 (b) Makes provisions for the child to be able  
14 to contact the parent, custodian, guardian, or foster parent on the same day  
15 on which the parent, custodian, guardian, or foster parent gives the child  
16 permission to remain at home; and

17 (c) Makes provisions for any reasonably  
18 foreseeable emergencies that may arise on the same day on which the parent,  
19 custodian, guardian, or foster parent gives the child permission to remain at  
20 home;

21  
22 *SECTION 5. Arkansas Code § 12-18-303, concerning the minimum*  
23 *requirements for reports to be accepted by the Child Abuse Hotline, is*  
24 *amended to add an additional subsection to read as follows:*

25 (e) A report that does not meet the requirements of subsection (a) of  
26 this section shall not be accepted by the Child Abuse Hotline.

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28 *SECTION 6. Arkansas Code § 12-18-601(d), concerning triage procedures*  
29 *developed and implemented by the Department of Human Services and the*  
30 *Department of Arkansas State Police, is amended to read as follows:*

31 *(d)(1) The Department of Human Services and the Department of Arkansas*  
32 *State Police may develop and implement triage procedures for accepting and*  
33 *documenting reports of child maltreatment of a child not at risk of imminent*  
34 *harm ~~if an appropriate referral is made to a community organization or~~*  
35 *~~voluntary preventive service.~~*

36 *(2) Triage procedures developed and implemented under this*

1 subsection may include without limitation procedures for the:

2 (A) Appropriate referral of a report of child maltreatment  
3 to a community organization or voluntary preventive service; and

4 (B) Closure of an investigation of a report of child  
5 maltreatment.

6 (3) Triage procedures developed and implemented under this  
7 subsection shall require the closure of an investigation of a report of child  
8 maltreatment if before, during, or after a referral or an investigation it is  
9 determined that the report of child maltreatment does not meet the  
10 requirements of § 12-18-303(a).

11 (4) The Department of Human Services and the Department of  
12 Arkansas State Police shall not implement this section until rules necessary  
13 to carry out this subsection have been promulgated pursuant to the Arkansas  
14 Administrative Procedure Act, § 25-15-201 et seq.

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16 SECTION 7. Arkansas Code § 12-18-619, concerning the closure of child  
17 maltreatment investigations by the Department of Human Services and the  
18 Department of Arkansas State Police, is amended to add an additional  
19 subsection to read as follows:

20 (d) The Department of Human Services and the Department of Arkansas  
21 State Police shall close a child maltreatment investigation if at any time  
22 before or during the investigation it is determined that the report of child  
23 maltreatment does not meet the requirements of § 12-18-303(a).

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25 SECTION 8. Arkansas Code § 12-18-623(a), concerning investigations of  
26 reports of child maltreatment that may be closed by a Department of Arkansas  
27 State Police investigator as unsubstantiated, is amended to read as follows:

28 (a)(1) A Department of Arkansas State Police investigator shall close  
29 an investigation of a report of child maltreatment as unsubstantiated if it  
30 is determined that the report of child maltreatment does not meet the  
31 requirements of § 12-18-303(a).

32 (2) A Department of Arkansas State Police investigator may close  
33 an investigation of a report of child maltreatment as unsubstantiated without  
34 complying with the requirements of this subchapter if:

35 ~~(1)~~ (A) The child identified as the victim:

36 ~~(A)~~ (i) Has been:

1 ~~(i)~~(a) Interviewed separate and apart from the  
2 alleged offender or any representative or attorney for the alleged offender  
3 when the child is of the age or ability to be interviewed; or

4 ~~(ii)~~(b) Observed separate and apart from the  
5 alleged offender or any representative or attorney for the alleged offender  
6 when the child is not of the age or ability to be interviewed; and

7 ~~(B)~~(ii) Credibly denies the allegation of child  
8 maltreatment;

9 ~~(2)~~(B) The child identified as the victim does not have  
10 the physical injuries or physical conditions that were alleged in the report  
11 of child maltreatment;

12 ~~(3)~~(C) The person identified as the alleged offender has  
13 been interviewed and credibly denies the allegation of child maltreatment;

14 ~~(4)~~(D) The person identified as the alleged offender  
15 resides in the home or is a family member of the child identified as the  
16 victim, the Department of Arkansas State Police investigator has ascertained  
17 the environment in which the child resides and determined there is no merit  
18 to the report of child maltreatment as it pertains to the home environment;

19 ~~(5)~~(E) The Department of Arkansas State Police  
20 investigator:

21 ~~(A)~~(i) Has interviewed the person who made the  
22 report to the Child Abuse Hotline; or

23 ~~(B)~~(ii) Has made a good faith effort to contact the  
24 person who made the report to the Child Abuse Hotline but is unable to  
25 interview the person; and

26 ~~(C)~~(iii) Has not identified another maltreatment or  
27 health or safety factor regarding the victim child; and

28 ~~(6)~~(F) The Department of Arkansas State Police  
29 investigator interviewed a collateral witness and reviewed medical, school,  
30 and mental health records that are related to the allegations when the child  
31 was unable to effectively communicate.

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33 /s/A. Clark  
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