

[NOTE: This is a model Bill using the Arkansas Legislature format. Use the format appropriate for your State when developing a draft to take to your State Representative or State Senator to sponsor for passage. An example of the format used for drafting Bills should be available from the Legislative web site for your State. Just obtain the text of a few actual Bills and use their structure and wording as a guideline. You will also need to identify the specific numbered sections of State Code to change.

There are some important conventions to keep in mind when drafting proposed Bills. Underlining text designates that it is new text to be added to the identified section of Code. A line drawn through text indicates it will be struck from existing Code if the Bill is enacted. Text that is neither underlined nor struck will remain unchanged in the Code.

If you have difficulty doing any of these things the easiest course of action would be to take this example and communicate to your State Representative and Senator that you want it enacted into law and why you want it.

Also note that [Model code section number 1](a) is referenced in [Model code section number 2](d) and [Model code section number 2](e).

It is important to keep intact the interrelationship built into [Model code section number 1](a), [Model code section number 1](f), [Model code section number 2](d) and [Model code section number 2](e). [Model code section number 2](e) is vital to changing the focus of the child protection system away from current policy of family destruction.

There are two types of definitions, concept and operational. A concept definition explains an idea. An operational definition is stated in terms of criteria or standards that can be used to detect the presence or absence of the condition the idea represents. The definition used in this Model Bill is an operational definition that will detect the presence or absence of the “best interest of the child.”]

## **A Bill**

### **For An Act To Be Entitled**

AN ACT ESTABLISHING A DEFINITION OF “THE BEST INTEREST OF THE CHILD”; AND FOR OTHER PURPOSES

### **Subtitle**

AN ACT ESTABLISHING A DEFINITION OF “THE BEST

## INTEREST OF THE CHILD”

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF [state name]:

SECTION 1. [state name] Code Title [number] Chapter [number] is amended to read as follows:

General Provisions.

[Model code section number 1]. Definitions.

(a) For purposes of conducting child abuse or molestation allegation investigations and child custody or adoption decision making, the “best interest of the child” means the least detrimental alternative objectively determined to have the lowest rates of per capita occurrence with regard to the following criteria and standards:

- (1) accidental injuries;
- (2) administrative inefficiency;
- (3) deaths;
- (4) deprivation of affection;
- (5) deprivation of constitutional and legal rights;
- (6) disruption of cultural continuity;
- (7) disruption of custody;
- (8) disruption of extended family relationships;
- (9) disruption of parental emotional relationship;
- (10) disruption of parental relationships;
- (11) disruption of religious affiliations;
- (12) disruption of social affiliations;
- (13) disruption of sustained intellectual development;
- (14) disruption of sustained healthy physical development;
- (15) disruption of sustained emotional development;
- (16) disruption of visitation;
- (17) economic exploitation;
- (18) emotional abuse;
- (19) emotional exploitation;
- (20) exploitation for criminal purposes;
- (21) false negative conclusions;
- (22) false positive conclusions;
- (23) fraud;
- (24) inaccurate records;
- (25) institutional abuse;
- (26) institutionalized abuse;
- (27) human experimentation;
- (28) legal/judicial exploitation;
- (29) nosocomial abuse;

- (30) organized criminal activity;
- (31) parental abuse of legal processes;
- (32) parental alienation;
- (33) physical abuse;
- (34) political exploitation;
- (35) science fraud;
- (36) unnecessary medication; and
- (37) use of the child as a pawn in adult disputes.

(b)"Child" means a person under the age of eighteen (18) years.

(c) "Division" means the Division of Children and Family Services of the Department of Human Services.

(d) "Investigation" means the process of obtaining a home study, home report, home assessment, home evaluation, or marital study.

(e) "Licensed social worker" means a social worker authorized to perform home studies or supervised visits under the Social Work Licensing Act, § [code section number] et seq.

(f) "Nosocomial abuse" means any death, injury, physical trauma, emotional trauma, physiological disorders, adverse medical conditions, diseases, mental disorders, economic loss or other harmful conditions inflicted upon a child or parent as a consequence of conducting unnecessary child abuse or molestations investigations, unnecessary abuse or molestation medical examinations, unnecessary medical procedures or medications, and unnecessary mental health evaluations or counseling.

~~(e)~~(g) "Regulations" means regulations promulgated by the division for the purpose of implementing this chapter pursuant to the [state name] Administrative Procedure Act, § [code section number] et seq.

~~(f)~~(h) "Study" means home study, home report, home assessment, home evaluation, or marital study.

~~(g)~~(i) "Supervision" means periodic visitation to the home or school or other places for monitoring or observation to determine a child's situation or condition or to regulate or facilitate visitation and may include court appearances to provide testimony on the visitation.

[Model code section number 2]. Investigation, study, or supervision involving children  
~~-Court order - Fee.~~

(a)(1) If a court of the State of [state name] requests or orders a licensed social worker

of the court's choice to perform any investigation, study, or supervision involving the custody, placement, adoption, or other pertinent matter with regard to a child or children, the licensed social worker selected by the court may charge a fee that shall not exceed the fair market value of the investigation, study, or supervision.

(2)(A) The Division of Children and Family Services of the Department of Human Services shall not be ordered by any court, except the juvenile division of the circuit court, to conduct an investigation, study, or supervision unless the court has first determined the responsible party to be indigent.

(B) The investigation, study, or supervision is to take place within the State of [state name].

(b) When the court requests or orders a licensed social worker to perform an investigation, study, or supervision, the court shall specify the party or parties responsible for payment of the fee and may grant a reasonable period of time for payment.

(c) If payment is not made within the established time frame as set forth in the court order or as prescribed by regulations, the obligation shall be considered a delinquent debt, as defined by regulation, and the licensed social worker may recover the fee as provided by law for the recovery of a debt.

(d) To assist the Governor, Law Enforcement, and Legislators in identifying the best interest of the child, the Department of Health and Human Services shall annually report the per capita rates of occurrence for the criteria and standards designated in § [Model code section number 1](a) as they occur in the general population and as they occur in children held in State custody and held under State supervision.

(e) The child's needs shall be presumed best met by his/her own parent(s) except when otherwise determined by consideration of all criteria and standards designated for determining the best interest of the child stated in § [Model code section number 1](a).