

Act 34 of the Third Special Session of 1989.

Act 34

HB1033

By: Representatives Flanagan, Lipton, Newman, Glover,
Forgey, and Arrington

For An Act To Be Entitled
"AN ACT TO AMEND SECTIONS 9 AND 10 OF ACT 273 OF 1989, THE
ARKANSAS JUVENILE CODE, TO CLARIFY THAT NO FILING FEES SHALL
BE CHARGED IN CERTAIN CASES AND TO REMOVE PROSECUTING
ATTORNEYS FROM THE AFFIDAVIT REQUIREMENT; AND FOR OTHER
PURPOSES."

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

SECTION 1. Section 9 of Act 273 of 1989 is hereby amended to read as follows:

"SECTION 9. Commencement of Proceedings.

(a) Proceedings shall be commenced by filing a petition with the clerk of the chancery court or by transfer by another court.

(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, DHS or its designee 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; or

(B) Any member ten (10) years or older of the immediate family alleged to be in need of services.

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

(A) Biological mother;

(B) A putative father;

(C) A juvenile; or

(D) DHS.

(c) A copy of any petition for dependency-neglect which requests that DHS take custody or provide family services shall be mailed to the Director of the Department of Human Services by the petitioner.

(d) (1) Any person may submit to the intake officer for investigation a complaint of acts or omissions which, if substantiated, would constitute delinquency.

(2) Upon substantiation, the intake officer may refer the matter to the prosecuting attorney or any appropriate agency.

(e) No filing fees shall be charged or collected by the clerk in cases brought in juvenile division of chancery court by a governmental entity or non-profit corporation, including but not limited to the prosecuting attorney or DHS."

SECTION 2. Section 10 of Act 273 of 1989 is hereby amended to read as follows:

"SECTION 10. Required Contents of Petition.

(a) The petition shall set forth the following:

(1) The name, address, gender, and date of birth of the juvenile.

(2) The name and address of each of the parents or the surviving parent of the juvenile.

(3) The name and address of the person, agency, or institution

having custody of the juvenile.

(4) The name and address of any other person, agency, or institution having a claim to custody or guardianship of the juvenile.

(5) In a proceeding to establish paternity, the name and address of both the putative father and the presumed legal father, if any.

(b) If the name or address of anyone listed in (a) above is unknown or cannot be ascertained by the petitioner with reasonable diligence, such shall be alleged in the petition and the petition shall not be dismissed for insufficiency, but the court shall direct appropriate measures to find and give notice to such persons.

(c) All persons named in (a) shall be made defendants and served as required by this act.

(d) (1) The petition shall set forth the following in plain and concise words:

(A) The facts which, if proven, would bring the family or juvenile within the court's jurisdiction;

(B) The subsection of this act upon which jurisdiction for the petition is based;

(C) The relief requested by the petitioner; and

(D) If a petition for delinquency proceedings, any and all sections of the criminal laws allegedly violated.

(2) Except in delinquency cases, the petition shall be supported by an affidavit of facts. A supporting affidavit of facts shall not be required for delinquency petitions."

SECTION 3. No fee shall be charged or collected by the clerks of the circuit and chancery courts for reopening a cause of action in the chancery court under the following circumstances:

(a) (1) An agreed order is presented to be filed; or

(2) An order of income withholding is to be filed; and

(b) No service of process is required.

SECTION 4. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 5. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 6. Emergency. It is hereby found and determined by the General Assembly that That since the passage of Act 273 of 1989 there has arisen the need to clarify that certain cases brought by the prosecuting attorney or the Department of Human Services have traditionally been brought without the necessity of payment of a filing fee to the court clerk; that additional confusion has arisen over an unnecessary requirement that the prosecuting attorney accompany delinquency petitions with a supporting affidavit of facts; that these two requirements constitute a burden on the juvenile justice system of this state; that it is in the best interests of all citizens of this state that these matters be clarified; that this act should become effective immediately upon its passage to alleviate these concerns. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: November 8, 1989

