

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1191 of the Regular Session

1 State of Arkansas As Engrossed: H2/18/05 H2/21/05 H2/22/05 H2/25/05

2 85th General Assembly

A Bill

3 Regular Session, 2005

HOUSE BILL 1709

4

5 By: Representative J. Martin

6 By: Senator Salmon

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For An Act To Be Entitled

10

AN ACT TO AMEND VARIOUS PROVISIONS OF THE

11

ARKANSAS JUVENILE CODE; AND FOR OTHER PURPOSES.

12

13

Subtitle

14

TO AMEND VARIOUS PROVISIONS OF THE

15

ARKANSAS JUVENILE CODE.

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

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SECTION 1. Arkansas Code § 9-27-303(17), concerning definitions in the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to add an additional subdivision to read as follows:

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(17)(A) "Dependent-neglected juvenile" means any juvenile who is at substantial risk of serious harm as a result of:

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(i) Abandonment;

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(ii) Abuse;

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(iii) Sexual abuse;

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(iv) Sexual exploitation;

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(v) Neglect; ~~or~~

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(vi) Parental unfitness to the juvenile, a sibling,

31

or another juvenile; or

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(vii) Being present in a dwelling or structure

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during the manufacturing of methamphetamine with the knowledge of the parent, guardian, or custodian.

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(B) "Dependent-neglected juvenile" includes dependent



1 juveniles;

2

3 SECTION 2. Arkansas Code § 9-27-306 is amended to read as follows:

4 9-27-306. Jurisdiction.

5 (a)(1)(A) The circuit court shall have exclusive original jurisdiction  
6 of and shall be the sole court for the following proceedings governed by this  
7 subchapter including, but not limited to:

8 ~~(A)(i)~~ Proceedings in which a juvenile is alleged to  
9 be delinquent ~~or dependent-neglected~~ as defined in this subchapter including  
10 juveniles ten (10) to eighteen (18) years of age, except the court may retain  
11 jurisdiction of a juvenile delinquent up to twenty-one (21) years of age if  
12 the juvenile was adjudicated delinquent prior to eighteen (18) years of age;

13 (ii) Proceedings in which a juvenile is alleged to  
14 be dependent or dependent-neglected from birth to eighteen (18) years of age,  
15 except for the following:

16 (a)(1) A juvenile who has been adjudicated  
17 dependent or dependent-neglected prior to eighteen (18) years of age may  
18 request the court to continue jurisdiction until twenty-one (21) years of age  
19 as long as the juvenile is engaged in a course of instruction or treatment.

20 (2) The court shall retain jurisdiction  
21 only if the juvenile remains or has a viable plan to remain in instruction or  
22 treatment.

23 (3) The court shall dismiss jurisdiction  
24 upon request of the juvenile or when the juvenile completes or is dismissed  
25 from instruction or treatment; or

26 (b) A juvenile may contact his or her attorney  
27 ad litem to petition the court to return to the court's jurisdiction to  
28 receive independent living services if the juvenile:

29 (1) Was adjudicated dependent or  
30 dependent-neglected;

31 (2) Was in foster care at *eighteen (18)*  
32 years of age; and

33 (3) Left foster care, but decides to  
34 return prior to twenty-one (21) years of age to benefit from independent  
35 living services;

36 ~~(B)(iii)~~ Proceedings in which emergency custody or a

1 seventy-two (72) hour hold has been taken on a juvenile pursuant to § 9-27-  
2 313 or § 12-12-516;

3 ~~(G)(iv)~~ *Proceedings in which a family is alleged to*  
4 *be in need of services as defined by this subchapter which shall include*  
5 *juveniles from birth to eighteen (18) years of age except for the following:*

6 *(a) A juvenile whose family has been*  
7 *adjudicated as a family in need of services and is in foster care before*  
8 *eighteen (18) years of age may request that the court continue jurisdiction*  
9 *until the age of twenty-one (21) if the juvenile is engaged in a course of*  
10 *instruction or treatment to receive independent living services;*

11 *(b) The court shall retain jurisdiction only*  
12 *if the juvenile remains or has a viable plan to remain in instruction or*  
13 *treatment to receive independent living services; or*

14 *(c) The court shall dismiss jurisdiction upon*  
15 *request of the juvenile or when the juvenile completes or is dismissed from*  
16 *the instruction or treatment to receive independent living services;*

17 ~~(D)(v)~~ *Proceedings for termination of parental*  
18 *rights for a juvenile under this subchapter ~~who is under the jurisdiction of~~*  
19 *~~the circuit court; and~~*

20 ~~(E)(vi)~~ *Proceedings in which custody of a juvenile*  
21 *is transferred to the Department of Human Services;*

22 *(vii) Proceedings for which a juvenile is alleged to*  
23 *be an extended juvenile jurisdiction offender pursuant to § 9-27-501 et seq.;*  
24 *and*

25 *(viii) Proceedings for which a juvenile is*  
26 *transferred to the juvenile division from the criminal division pursuant to §*  
27 *9-27-318.*

28 *(B) In no event shall a juvenile remain under the court's*  
29 *jurisdiction past twenty-one (21) years of age.*

30 (2) The court shall retain jurisdiction to issue orders of  
31 adoption, interlocutory, or final if a juvenile is placed outside the State  
32 of Arkansas.

33 (b) The assignment of cases to the juvenile division of circuit court  
34 shall be as described by the Supreme Court in Administrative Order Number 14,  
35 originally issued April 6, 2001.

36 (c)(1) The circuit court shall have concurrent jurisdiction with the

1 district court over juvenile curfew violations.

2 (2) For juvenile curfew violations, the prosecutor may file a  
3 family in need of services petition in circuit court or a citation in  
4 district court.

5 (d) The circuit court shall have jurisdiction to hear proceedings  
6 commenced in any court of this state or court of comparable jurisdiction of  
7 another state which are transferred to it pursuant to the Uniform Child-  
8 Custody Jurisdiction and Enforcement Act, § 9-19-101 et seq.

9  
10 SECTION 3. Arkansas Code § 9-27-337 is amended to read as follows:  
11 9-27-337. Six-month reviews required.

12 (a)~~(1) Every six (6) months, the~~ The court shall review every case of  
13 dependency-neglect, or families in need of services, ~~or delinquency when an~~  
14 ~~out-of-home placement has occurred, as defined by § 9-27-303(36), when a~~  
15 juvenile is placed by the court in the custody of the Department of Human  
16 Services or in another out-of-home placement until there is a permanent order  
17 of custody, guardianship, ~~or~~ other permanent placement for the juvenile  
18 ~~adoption~~, or the juvenile is returned to the parent, guardian, or custodian  
19 and the court has discontinued orders for family services.

20 (2) ~~During each six month review the court shall make~~  
21 ~~determinations based upon the best interest of the juvenile~~ The first six-  
22 month review shall be held no later than six (6) months from the date of the  
23 original out-of-home placement of the child and shall be reviewed every six  
24 (6) months thereafter until permanency is achieved.

25 (b)(1) The court may require these cases to be reviewed prior to the  
26 sixth month.

27 (2)(A) If a court requires a case to be reviewed prior to the  
28 sixth month, then the court shall announce the date, time, and place of  
29 hearing.

30 (B) In all other cases, it shall be the duty of the  
31 petitioner at least sixty (60) days prior to date of the required six-month  
32 review to request that the court:

33 (i) Set the review hearing;

34 (ii) Provide reasonable notices; and

35 (iii) Serve notice on all parties in accordance with  
36 the Arkansas Rules of Civil Procedure.

1        (c) At any time during the pendency of any case of dependency-neglect  
2 or families in need of services in which an out-of-home placement has  
3 occurred, any party may request the court to review the case.

4        ~~(3)(A)(d)~~ At any time during the course of a case, the Department of  
5 Human Services, the attorney ad litem, or the court can request a hearing on  
6 whether or not reunification services should be terminated pursuant to § 9-  
7 27-327(a)(2).

8                    ~~(B)(i)~~ ~~The requesting party shall provide notice to the~~  
9 ~~parties at least fourteen (14) calendar days before the hearing.~~

10                    ~~(ii)~~ ~~The notice shall identify the grounds for~~  
11 ~~recommending termination of reunification services in sufficient detail to~~  
12 ~~put the family on notice.~~

13                    ~~(C)(i)~~ ~~The court shall determine whether or not~~  
14 ~~reunification services shall be terminated.~~

15                    ~~(ii)~~ ~~The burden of presenting the case shall be on~~  
16 ~~the requesting party.~~

17                    ~~(D)(i)~~ ~~The court shall conduct and complete a hearing on a~~  
18 ~~request for no reunification services within fifty (50) days of the date of~~  
19 ~~written notice to the defendants.~~

20                    ~~(ii)~~ ~~The court shall enter an order determining~~  
21 ~~whether or not reunification services shall be provided.~~

22                    ~~(E)~~ ~~If the court determines that reunification services~~  
23 ~~shall be terminated, the court shall hold a permanency planning hearing~~  
24 ~~within thirty (30) days after the determination.~~

25        ~~(b)(e)(1)(A)~~ In each case in which a juvenile has been placed in an  
26 out-of-home placement, ~~within six (6) months after the original out-of-home~~  
27 ~~placement and every six (6) months thereafter while the juvenile continues~~  
28 ~~out-of-home,~~ the court shall conduct a hearing ~~or shall~~ to review the case  
29 sufficiently to determine the future status of the juvenile based upon the  
30 best interest of the juvenile.

31                    (B) The court shall determine and shall include in its  
32 orders the following:

33                    (i) whether ~~Whether~~ the case plan, services, and  
34 placement meet the special needs and best interest of the juvenile, with the  
35 juvenile's health, ~~and~~ safety, and educational needs specifically addressed,  
36 ~~and;~~

1                   ~~(ii) whether~~ Whether the state has made reasonable  
2 efforts to provide family services;

3                   ~~(iii) Whether the case plan is moving towards an~~  
4 appropriate permanency plan pursuant to § 9-27-338 for the juvenile; and

5                   ~~(iv) Whether the visitation plan is appropriate for~~  
6 the children and the parents and the siblings, if separated.

7                   ~~(C)(i) The court shall project a date for the juvenile to~~  
8 ~~return home or, if there is no projected date for a return home, the~~  
9 ~~projected dates for other alternatives and what those alternatives are.~~

10                   ~~(ii) This determination must be based on a full and~~  
11 ~~deliberate consideration of all of~~ In making its findings the court shall  
12 consider the following:

13                   ~~(a)(i)~~ The extent of compliance with the case plan,  
14 including, but not limited to, a review of the department's care for the  
15 health, and safety, and education of the juvenile while he or she has been in  
16 an out-of-home placement;

17                   ~~(b)(ii)~~ The extent of progress that has been made  
18 toward alleviating or mitigating the causes of the out-of-home placement;

19                   ~~(c)(iii)~~ Whether the juvenile should be returned to  
20 his or her parent or parents and whether or not the juvenile's health and  
21 safety can be protected by his or her parent or parents if returned home; and

22                   ~~(d)(iv)~~ Whether the juvenile should be continued in  
23 an out-of-home placement for a specified period of time;

24                   ~~(e) Whether the juvenile should be placed for~~  
25 adoption; and

26                   ~~(f) Whether the juvenile, because of special~~  
27 ~~needs or circumstances, should be continued in an out-of-home placement on a~~  
28 ~~permanent or long-term basis~~ An appropriate permanency plan pursuant to § 9-  
29 27-338 for the juvenile, including concurrent planning.

30                   (2) Each six-month review hearing shall be completed and a  
31 written order shall be filed by the court or by a party or party's attorney  
32 as designated by the court and distributed to the parties within thirty (30)  
33 days of the date of the hearing or prior to the next hearing, whichever is  
34 sooner.

35                   ~~(e)(1)(A) The court may require any case of dependency neglect, family~~  
36 ~~in need of services, or delinquency when an out-of-home placement has~~

1 occurred to be reviewed prior to the sixth month.

2 (B) In such a case, the court shall announce the date,  
3 time, and place of hearing.

4 (2) In all other cases, it shall be the duty of the petitioner  
5 at least sixty (60) days prior to the date the existing order would be  
6 vacated to request the court to set a review hearing as required by this  
7 subchapter.

8 (d) At any time during the pendency of any case of dependency neglect,  
9 family in need of services, or delinquency in which an out-of-home placement  
10 has occurred, any party may request the court to review the case.

11 (e) It shall be the duty of the petitioner to provide all parties with  
12 reasonable notice and serve this notice on all parties in accordance with the  
13 Arkansas Rules of Civil Procedure.

14 (f)(1) The department shall provide the court-appointed special  
15 advocate, the parties, and counsel with a copy of a review report no later  
16 than seven (7) business days before every scheduled review hearing of each  
17 juvenile who is in an out-of-home placement.

18 (2) The department shall present the report to the court at the  
19 scheduled hearing, subject to evidentiary objections.

20 (g) The review report shall include a summary of the parties'  
21 compliance with the case plan and court orders, including a description of  
22 the services and assistance that the department has provided to the family.

23  
24 SECTION 4. Arkansas Code § 9-27-338 is amended to read as follows:

25 9-27-338. Permanency planning hearing.

26 (a)(1) ~~No later than~~ A permanency planning hearing shall be held to  
27 finalize a permanency plan for the juvenile:

28 (A) ~~twelve~~ Twelve (12) months after the date the juvenile  
29 enters an out-of-home placement, ~~as defined by § 9-27-303(36), or;~~

30 (B) ~~after~~ After a juvenile has been in an out-of-home  
31 placement for fifteen (15) of the previous twenty-two (22) months, excluding  
32 trial placements and time on runaway status; or

33 (C) ~~no~~ No later than thirty days after the circuit court  
34 files an order that ~~no~~ a hearing granting no reunification services shall be  
35 made to reunite the juvenile with his or her family, the court shall hold a  
36 permanency planning hearing in order to enter a new disposition in the case.

1 (2) If a juvenile remains in an out-of-home placement after the  
2 initial permanency planning hearing, an annual permanency planning hearing  
3 shall be held annually each year thereafter to reassess the permanency goal  
4 plan selected for the juvenile.

5 (b)(1) Nothing in this section shall be construed to prevent the  
6 Department of Human Services or the attorney ad litem from filing a petition  
7 to terminate parental rights, a petition for guardianship, or a petition for  
8 permanent custody at any time prior to the permanency planning hearing.

9 (2) A permanency planning hearing is not required prior to any  
10 of these actions.

11 ~~(3) The Department of Human Services shall develop a permanency~~  
12 ~~planning report to be presented at the permanency planning hearing outlining~~  
13 ~~the department's recommendations for a permanency plan for the child and the~~  
14 ~~steps necessary to finalize the permanency plan in a timely manner.~~

15 ~~(4)(c)~~ At the permanency planning hearing, based upon the facts of the  
16 case, the court shall enter one (1) of the following permanency goals, listed  
17 in order of preference, in accordance with the best interest of the juvenile:

18 ~~(A)(1)~~ Return the juvenile to the parent, guardian, or custodian  
19 at the permanency planning hearing if it is in the best interest of the  
20 juvenile and the juvenile's health and safety can be adequately safeguarded  
21 if returned home;

22 ~~(B)(i)(2)(A)~~ Authorize a plan for the termination of the parent-  
23 child relationship so that the child is available to be adopted unless ~~the~~:

24 ~~(a)(i)~~ Child The child is being cared for by a  
25 relative, including a minor foster child caring for his or her own child who  
26 is in foster care, and termination of parental rights is not in the best  
27 interest of the child;

28 ~~(b)(iii)~~ The department has documented in the case  
29 plan a compelling reason why filing such a petition is not in the best  
30 interest of the child and the court approves the compelling reason as  
31 documented in the case plan; ~~and~~ or

32 ~~(e)(iii)(a)~~ The department has not provided to the  
33 family of the child, consistent with the time period in the case plan, such  
34 services as the department deemed necessary for the safe return of the child  
35 to the child's home if reunification services were required to be made to the  
36 family.



1                                    ~~(ii)~~(b) If the department has failed to  
2 provide services as outlined in the case plan, the court shall continue the  
3 permanency planning hearing for no later than six (6) months.

4                                    ~~(iii)~~ If the court determines the permanency goal to be  
5 termination of parental rights, the department shall file the petition to  
6 terminate parental rights within thirty (30) days from the date of the entry  
7 of the order establishing the goal;

8                                    ~~(C)~~(3) Authorize a plan to obtain a guardian for the child;

9                                    ~~(D)~~(4) Authorize a plan to obtain a permanent custodian,  
10 including permanent custody with a relative, for the child;

11                                   ~~(E)~~(i)(5)(A) Continue the goal of reunification only when the  
12 parent is complying with the established case plan and orders of the court,  
13 making significant measurable progress towards achieving the goals  
14 established in the case plan and diligently working toward reunification.

15                                   ~~(ii)~~(B) Reunification must be expected to occur within a  
16 time frame that is consistent with the child's developmental needs.

17                                   ~~(iii)~~(C) A parent's resumption of contact or overtures  
18 toward participating in the case plan or following the orders of the court in  
19 the months or weeks immediately preceding the permanency hearing are  
20 insufficient grounds for retaining reunification as the permanency plan.

21                                   ~~(iv)~~(D) The burden is on the parent to demonstrate  
22 genuine, sustainable investment in completing the requirements of the case  
23 plan and following the orders of the court in order to retain reunification  
24 as the permanency goal; or

25                                   ~~(F)~~(6)(A) Authorize a plan for another planned permanent living  
26 arrangement (APPLA) which shall include a permanent planned living  
27 arrangement and addresses the quality of services, including, but not limited  
28 to, independent living services, if age-appropriate, and a plan for the  
29 supervision and nurturing the child will receive.

30                                   (B) Independence, Another planned permanent living  
31 arrangement which shall be selected only if:

32                                   (i) The juvenile cannot be reunited with the  
33 juvenile's family;

34                                   (ii) Another permanent plan is not available; and

35                                   (iii) Either:

36                                   (a) A compelling reason exists why termination

1 of parental rights is not in the juvenile's best interest; or

2 (b) The juvenile is being cared for by a  
3 relative and termination of parental rights is not in the best interest of  
4 the juvenile.

5 (d) At every permanency planning hearing the court shall make a  
6 finding on whether the Department of Human Service has made reasonable  
7 efforts and shall describe the efforts to finalize a permanency plan for the  
8 juvenile.

9 ~~(b)(1) A hearing shall be held to determine whether or not the~~  
10 ~~department shall file a petition to terminate parental rights before the end~~  
11 ~~of the fifteenth month if:~~

12 ~~(A) The juvenile has been in an out-of-home placement for~~  
13 ~~fifteen (15) continuous months; and~~

14 ~~(B) At the permanency planning hearing, the court~~  
15 ~~continued the goal of reunification or entered a goal of independence.~~

16 ~~(2) Trial visits with the parents and time spent on runaway~~  
17 ~~status shall not count in adding up fifteen (15) months.~~

18 ~~(3) The court shall authorize the department to file a petition~~  
19 ~~to terminate parental rights unless the:~~

20 ~~(A) Child is being cared for by a relative and termination~~  
21 ~~of parental rights is not in the best interest of the child;~~

22 ~~(B) Department has documented in the case plan a~~  
23 ~~compelling reason why filing such a petition is not in the best interest of~~  
24 ~~the child and the court approves the compelling reason as documented in the~~  
25 ~~case plan; or~~

26 ~~(C) Department has not provided to the family of the~~  
27 ~~juvenile, consistent with the time period in the case plan, the services as~~  
28 ~~the department deemed necessary for the safe return of the child to the~~  
29 ~~child's home if reunification services were required to be made to the~~  
30 ~~family.~~

31 ~~(4) If the court determines the new permanency goal to be~~  
32 ~~termination of parental rights, the department shall file the petition to~~  
33 ~~terminate parental rights no later than the fifteenth month after the child's~~  
34 ~~entry into foster care.~~

35 ~~(5) If the court finds that the juvenile should remain in an~~  
36 ~~out-of-home placement, either long term or otherwise, the juvenile's case~~

1 shall be reviewed every six (6) months, with an annual permanency planning  
2 hearing.

3 ~~(c) Nothing in this section shall be construed to prevent the state~~  
4 ~~agency from filing a petition to terminate parental rights, a petition for~~  
5 ~~guardianship, or a petition for permanent custody at any time prior to the~~  
6 ~~permanency planning hearing.~~

7 ~~(d)(1) The department shall provide the court appointed special~~  
8 ~~advocate, if one has been appointed, the parties, and counsel with a copy of~~  
9 ~~the permanency planning report no later than seven (7) business days before~~  
10 ~~the scheduled permanency planning hearing.~~

11 ~~(2) The department shall present the report to the court at the~~  
12 ~~scheduled hearing, subject to evidentiary objections.~~

13 ~~(e) The permanency planning report shall include, but not be limited~~  
14 ~~to, the following:~~

15 ~~(1) A list of all placements the juvenile has been in since the~~  
16 ~~last court hearing;~~

17 ~~(2) A recommendation and discussion regarding:~~

18 ~~(A) The juvenile's permanency plan;~~

19 ~~(B) The appropriateness of the plan;~~

20 ~~(C) The steps and services necessary to achieve the goal;~~

21 ~~(D) Time frames for the steps, services, and goal; and~~

22 ~~(E) The names of the persons responsible for the steps and~~  
23 ~~services; and~~

24 ~~(3) The location of the siblings and, if the siblings have been~~  
25 ~~separated, a statement of the reasons for separation and, if it is~~  
26 ~~appropriate to reunite the siblings, the efforts that have been and will be~~  
27 ~~made to reunite the siblings as soon as possible and to enable the siblings~~  
28 ~~to maintain regular contact.~~

29 ~~(f)(e)~~ A written order shall be filed by the court or by a party or  
30 party's attorney as designated by the court and distributed to the parties  
31 within thirty (30) days of the date of the hearing or prior to the next  
32 hearing, whichever is sooner.

33 (f) If the court determines that the permanency goal is termination of  
34 parental rights, the department shall file the petition to terminate parental  
35 rights within thirty (30) days from the date of the permanency planning  
36 hearing that establishes termination of parental rights as the permanency

1 goal.

2  
3 SECTION 5. Arkansas Code Title 9, Chapter 27, Subchapter 3 is amended  
4 to add three (3) additional sections to read as follows:

5 9-27-359. Fifteenth-month review hearing.

6 (a) A hearing shall be held to determine whether the Department of  
7 Human Services shall file a petition to terminate parental rights if:

8 (1) A juvenile has been in an out-of-home placement for fifteen  
9 (15) continuous months, excluding trial placements and time on runaway  
10 status; and

11 (2) The goal at the permanency planning hearing was either:

12 (A) Reunification; or

13 (B) Another planned permanent living arrangement (APPLA).

14 (b) The court shall authorize the department to file a petition to  
15 terminate parental rights unless:

16 (1) The child is being cared for by a relative and termination  
17 of parental rights is not in the best interest of the child;

18 (2) The department has documented in the case plan a compelling  
19 reason why filing such a petition is not in the best interest of the child  
20 and the court approves the compelling reason as documented in the case plan;  
21 or

22 (3) The department has not provided to the family of the  
23 juvenile, consistent with the time period in the case plan, the services as  
24 the department deemed necessary for the safe return of the child to the  
25 child's home if reunification services were required to be made to the  
26 family.

27 (c) If the court determines the permanency goal to be termination of  
28 parental rights, then the department shall file the petition to terminate  
29 parental rights no later than the fifteenth month of the child's entry into  
30 foster care.

31 (d) If the court finds that the juvenile should remain in an out-of-  
32 home placement, either long-term or otherwise, then the juvenile's case shall  
33 be reviewed every six (6) months, with an annual permanency planning hearing.

34 (e) A written order shall be filed by the court or by a party or  
35 party's attorney as designated by the court and distributed to the parties  
36 within thirty (30) days of the date of the hearing or prior to the next

1 hearing, whichever is sooner.

2  
3 9-27-360. Post-termination of parental rights reviews.

4 (a) After an order of termination of parental rights, the court shall  
5 review the case following the termination hearing at least every three (3)  
6 months when the goal is adoption and in other cases every six (6) months  
7 until permanency is achieved.

8 (b) The court shall determine and shall include in its orders whether:

9 (1) The case plan, services, and current placement meet the  
10 juvenile's special needs and best interest, with the juvenile's health,  
11 safety, and educational needs specifically addressed;

12 (2) The Department of Human Services has made reasonable efforts  
13 to finalize a permanency plan for the juvenile; and

14 (3) The case plan is moving towards an appropriate permanent  
15 placement for the juvenile.

16 (c) In making its findings the court shall consider the extent of the  
17 department's and the juvenile's compliance with the case plan and court  
18 orders to finalize the permanency plan.

19 (d) A written order shall be filed by the court or by a party or a  
20 party's attorney as designated by the court and distributed to the parties  
21 within thirty (30) days of the date of the hearing or prior to the next  
22 hearing, whichever is sooner.

23  
24 9-27-361. Court reports.

25 (a)(1) Seven (7) business days prior to a scheduled dependency-neglect  
26 review hearing, including the fifteenth month review hearing and any post-  
27 termination of parental rights hearing, the Department of Human Services and  
28 a court-appointed special advocate, if appointed, shall file with the  
29 juvenile division of the circuit court a review report including a  
30 certificate of service that the report has been distributed to all of the  
31 parties or their attorneys and the court-appointed special advocate, if  
32 appointed.

33 (2)(A) The court report prepared by the Department of Human  
34 Services shall include a summary of the parties' compliance with the court  
35 orders and case plan, including the description of the services and  
36 assistance the department has provided and recommendations to the court.

1                   (B) In cases in which a child has been returned home, the  
2 department's review report shall include a description of any services needed  
3 by and requirements of the parents, including, but not limited to, a safety  
4 plan to ensure the health and safety of the juvenile in the home.

5                   (3) The report prepared by the court-appointed special advocate  
6 shall include, but is not limited to, any independent factual information  
7 that he or she feels is relevant to the case, a summary of the parties'  
8 compliance with the court orders, and recommendations to the court.

9                   (4)(A) At a review hearing the court shall determine on the  
10 record whether the previously filed reports shall be admitted into evidence  
11 based on any evidentiary objections made by the parties.

12                   (B) The court shall not consider as evidence any report or  
13 part of a report that was not admitted into evidence on the record.

14                   (b)(1) Seven (7) business days prior to a scheduled dependency-neglect  
15 permanency planning hearing, the Department of Human Services and the court-  
16 appointed special advocate, if appointed, shall file with the juvenile  
17 division of the circuit court a permanency planning court report that  
18 includes a certificate of service which establishes that the report has been  
19 distributed to all of the parties or their attorneys and the court-appointed  
20 special advocate, if appointed.

21                   (2) The permanency planning court report prepared by the  
22 Department of Human Services shall include, but not be limited to, the  
23 following:

24                   (A) A summary of the parties' compliance with the court  
25 orders and case plan, including the description of the services and  
26 assistance the department has provided;

27                   (B) A list of all the placements the juvenile has been in;

28                   (C) A recommendation and discussion regarding the  
29 permanency plan including the appropriateness of the plan, a timeline, and  
30 the steps and services necessary to achieve the plan, including the persons  
31 responsible; and

32                   (D) The location of any siblings, and if separated, a  
33 statement for the reasons for separation and any efforts to reunite or  
34 maintain contact if appropriate and it is the best interest of the siblings.

35                   (3) The report prepared by the court-appointed special advocate  
36 shall include, but is not limited to, any independent factual information

1 that he or she feels is relevant to the case, a summary of the parties'  
2 compliance with the court orders, and the recommendations to the court.

3 (4)(A) At the permanency planning hearing the court shall  
4 determine on the record whether the previously filed reports shall be  
5 admitted into evidence based on any evidentiary objections made by the  
6 parties.

7 (B) The court shall not consider as evidence any report or  
8 part of a report that was not admitted into evidence on the record.

9 (c)(1) Nothing in this section shall prevent the Department of Human  
10 Services or the court-appointed special advocate from filing a report with  
11 the court and providing it to all parties or their attorneys at least seven  
12 (7) business days prior to any scheduled dependency-neglect hearing or  
13 presenting any subsequent or addendum reports to the court during a hearing.

14 (2)(A) The court shall determine on the record whether the  
15 reports shall be admitted into evidence based on any evidentiary objections  
16 made by the parties.

17 (B) The court shall not consider as evidence any report or  
18 part of a report that was not admitted into evidence on the record.

19  
20 SECTION 6. Arkansas Code § 9-28-410 is amended to read as follows:

21 9-28-410. ~~Limitation on Department of Human Services~~ Foster care  
22 placements.

23 ~~(a)(1)~~ The policy of the State of Arkansas is that children in the  
24 custody of the Department of Human Services should have stable placements.

25 (b)(1) To reduce the number of placements of children in foster care,  
26 if a foster parent requests a foster child be removed from his or her home at  
27 any time, excluding an emergency that places the child or a family member at  
28 risk of harm, then the foster parent shall attend a staffing which shall be  
29 arranged by the Division of Children and Family Services of the Department of  
30 Human Services within forty-eight (48) hours to discuss what services or  
31 assistance may be needed to stabilize the placement.

32 (2) The foster child, the child's attorney ad litem, and a  
33 court-appointed special advocate, if appointed, shall be notified so that  
34 they may attend and participate in the staffing and planning for the child's  
35 placement.

36 (3) If the placement cannot be stabilized, then the foster

1 parent shall continue to provide for the foster child until an appropriate  
2 alternative placement is located, but this shall not be longer than five (5)  
3 business days.

4 ~~(2)(A)(c)(1)~~ Changes Other changes in placement shall be made only  
5 after notification of the foster child, foster parent, the child's attorney  
6 ad litem, the child's birth parents, and the court having jurisdiction over  
7 the child.

8 ~~(B)(2)~~ The notices shall:

9 ~~(i)(A)~~ Be sent in writing two (2) weeks prior to the  
10 proposed change;

11 ~~(ii)(B)~~ Specify reasons for the proposed change;

12 ~~(iii)(C)~~ Convey to the attorney ad litem the address of  
13 the proposed new foster home or ~~institution~~ placement provider; and

14 ~~(iv)(D)~~ Convey to the child the name and telephone number  
15 of his or her ~~guardian~~ attorney ad litem and a statement that if the child  
16 objects to the change in placement, the attorney ad litem may be able to  
17 assist in challenging the change.

18 ~~(b)(1)(d)(1)~~ Exceptions to the advance notice requirement shall be  
19 made if the child's health or welfare would be endangered by delaying a  
20 change in placement.

21 (2) Within twenty-four (24) hours of the change in placement the  
22 department shall:

23 (A) Notify the birth parent of the change;

24 (B) Notify the child's attorney ad litem of the change;

25 and

26 (C) Provide the attorney ad litem with the name, ~~and~~  
27 address, and telephone number of the new foster care home or placement  
28 provider.

29 (3) Within seventy-two (72) hours of the change in placement,  
30 the department shall provide written notice to the attorney ad litem for the  
31 specific reasons justifying the change of placement without advance notice.

32 ~~(e)(1)(e)(1)~~ If an agent, employee, or contractor of the department  
33 fails to comply with this section, then an action for violation of this  
34 section may be filed by any party to the action against the person who failed  
35 to comply with this section, with the assessment of punishment to be  
36 determined by the court.



1 (2) If the court finds the agent, employee, or contractor of the  
2 department failed to comply with this section, then the court may order the  
3 department or the agent, employee, or contractor to pay all of the costs of  
4 the proceedings brought under this section.

5 (f) All division caseworkers, supervisors, and area managers shall  
6 have at least six (6) hours of annual training on separation and placement  
7 issues, as well as issues relating to the grief and loss children experience  
8 in foster care with multiple placements.

9  
10 SECTION 7. Arkansas Code § 9-27-358 is repealed.

11 ~~9-27-358. Placement—Staffing and planning.~~

12 ~~(a)(1) To reduce the number of placements of children in foster care,~~  
13 ~~anytime a foster parent requests a foster child be removed from their home,~~  
14 ~~excluding an emergency that places the child or a family member at risk of~~  
15 ~~harm, the foster parent must attend a staffing which will be arranged by the~~  
16 ~~Division of Children and Family Services of the Department of Human Services~~  
17 ~~within forty eight (48) hours to discuss what services or assistance may be~~  
18 ~~needed to stabilize the placement.~~

19 ~~(2) The foster child, the child's attorney ad litem, and a~~  
20 ~~court-appointed special advocate, if appointed to the case, shall be notified~~  
21 ~~so that they can attend and participate in the staffing and planning for the~~  
22 ~~child's placement.~~

23 ~~(3) If the placement cannot be stabilized, the foster parent~~  
24 ~~will continue to provide for the foster child until an appropriate~~  
25 ~~alternative placement is located, but this shall not be longer than five (5)~~  
26 ~~business days.~~

27 ~~(b) All division caseworkers, supervisors, and area managers shall~~  
28 ~~have at least six (6) hours of annual training on separation and placement~~  
29 ~~issues, as well as issues relating to the grief and loss children experience~~  
30 ~~in foster care with multiple placements.~~

31  
32 SECTION 8. Arkansas Code § 9-27-507(d), regarding extended juvenile  
33 jurisdiction court review hearings, is amended to read as follows:

34 (d)(1) If the state or the juvenile files a petition to modify the  
35 court's disposition order before six (6) months prior to the juvenile's  
36 eighteenth birthday, the filing party bears the burden of proof.

1           (2) However, if the juvenile is sixteen (16) or seventeen (17)  
2 years of age at the time that the extended juvenile jurisdiction petition is  
3 filed, then the State of Arkansas or the juvenile may petition the court  
4 after the juvenile's eighteenth birthday but no later than six (6) months  
5 before the juvenile's twenty-first birthday.

6  
7           SECTION 9. Arkansas Code § 9-27-507(e), regarding extended juvenile  
8 jurisdiction court review hearings, is amended to read as follows:

9           (e)(1) If no hearing has been conducted six (6) months before the  
10 juvenile's eighteenth birthday or no later than six (6) months before the  
11 juvenile's twenty-first birthday if the juvenile is sixteen (16) or seventeen  
12 (17) years of age at the time that the extended juvenile jurisdiction  
13 petition is filed, the court shall conduct a hearing to determine whether to  
14 release the juvenile, amend or add any juvenile disposition, or impose an  
15 adult sentence.

16           (2) In making its determination, the court shall consider the  
17 following:

18                   (A) The experience and character of the juvenile before  
19 and after the juvenile disposition, including compliance with the court's  
20 orders;

21                   (B) The nature of the offense or offenses and the manner  
22 in which the offense or offenses were committed;

23                   (C) The recommendations of the professionals who have  
24 worked with the juvenile;

25                   (D) The protection of public safety;

26                   (E) Opportunities provided to the juvenile for  
27 rehabilitation and the juvenile's efforts toward rehabilitation; and

28                   (F) Victim impact evidence admitted pursuant to § 16-97-  
29 103.

30           (3) If the state seeks to impose an adult sentence, the state  
31 must prove by a preponderance of the evidence that the imposition of an adult  
32 sentence is appropriate and that public safety requires imposition.

33           (4)(A) Following a hearing, the court may enter any of the  
34 following dispositions:

35                   (i) Release the juvenile;

36                   (ii) Amend or add any juvenile disposition; and

1 (iii)(a) Exercise its discretion to impose the full  
2 range of sentencing available in circuit court, including probation,  
3 suspended imposition of sentence, and imprisonment.

4 (b) However, a sentence of imprisonment shall  
5 not exceed forty (40) years, except juveniles adjudicated for capital murder,  
6 § 5-10-101, and murder in the first degree, § 5-10-102, may be sentenced for  
7 any term, up to and including life.

8 (B) Statutory provisions prohibiting or limiting probation  
9 or suspended imposition of sentence or parole for offenses when committed by  
10 an adult, shall not apply to juveniles sentenced as extended juvenile  
11 jurisdiction offenders.

12 (C) A juvenile shall receive credit for time served in a  
13 juvenile detention or any juvenile facility.

14 (D)(i) A court may not order an absolute release of an  
15 extended juvenile jurisdiction offender who has been adjudicated delinquent  
16 for capital murder, § 5-10-101, or murder in the first degree, § 5-10-102.

17 (ii) If release is ordered, the court shall impose a  
18 period of probation for not less than three (3) years.

19  
20 SECTION 10. Arkansas Code § 9-27-356(j), regarding juvenile sex  
21 offender assessment and registration, is amended to read as follows:

22 (j) If the court does not order the juvenile's name removed from the  
23 sex offender register, the juvenile shall remain on the sex offender register  
24 for ten (10) years from the last date on which the juvenile was adjudicated a  
25 delinquent or found guilty as an adult for a sex offense or until the  
26 juvenile turns twenty-one (21) years of age, whichever is longer.

27  
28 /s/ J. Martin

29  
30  
31 APPROVED: 3/24/2005

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