

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 874 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: S2/22/05

A Bill

SENATE BILL 442

5 By: Senator Madison
6 By: Representative J. Martin
7
8

For An Act To Be Entitled

10 AN ACT REGARDING THE PLACEMENT OF CHILDREN
11 REMOVED FROM THEIR HOMES OR IN THE CUSTODY OF THE
12 DEPARTMENT OF HUMAN SERVICES; TO AMEND THE
13 ARKANSAS JUVENILE CODE; AND FOR OTHER PURPOSES.
14

Subtitle

15 REGARDING THE PLACEMENT OF CHILDREN
16 REMOVED FROM THEIR HOMES OR IN THE
17 CUSTODY OF THE DEPARTMENT OF HUMAN
18 SERVICES.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 9-27-355 is amended to read as follows:
25 9-27-355. Placement of juveniles.

26 (a) For purposes of this section, "relative" means a person within the
27 fifth degree of kinship by virtue of blood or adoption.

28 ~~(a)-(1)~~ (b)(1)(A) After the Department of Human Services removes a
29 juvenile or the court grants custody of the juvenile to the department, the
30 juvenile shall be placed in a licensed or approved foster home, shelter, or
31 facility, or an exempt child welfare agency, as defined at § 9-28-402(12).

32 (B) For juveniles placed out of state, the placement shall
33 be approved pursuant to the Interstate Compact on the Placement of Children,
34 § 9-29-201 et seq.

35 (2) The court shall not specify a particular provider for



1 placement of any foster child.

2 (3) When it is in the best interest of each of the juveniles,
3 the department shall attempt to place siblings together while they are in a
4 foster care and adoptive placement.

5 (4) When it is in the best interest of each of the juveniles,
6 the department shall attempt to place together in foster care the infants of
7 a minor mother.

8 ~~(b)(1)(c)(1)~~ (c)(1) Relatives of a juvenile placed in the custody of the
9 department shall be given preferential consideration for placement if the
10 relative caregiver meets all relevant child protection standards and it is in
11 the juvenile's best interest to be placed with the relative caregiver.

12 (2) Placement or custody of a juvenile in the home of a relative
13 or other person shall not relieve the department of its responsibility to
14 actively implement the goal of the case.

15 (3) If ~~the~~ a relative ~~meets all relevant child protection~~
16 ~~standards and it is in the juvenile's best interest to be placed with the~~
17 ~~relative caregiver~~ or other person inquires about the placement of a juvenile
18 in his or her home, the department shall discuss ~~with the relative~~ the
19 following two (2) options for the placement of the juvenile ~~in the relative's~~
20 ~~home~~:

21 (A) ~~The relative's becoming~~ Becoming a department ~~relative~~
22 foster home; or

23 (B) ~~The relative's obtaining~~ Obtaining legal custody of
24 the juvenile.

25 (4)(A) The juvenile shall remain in a licensed or approved
26 foster home, shelter, or facility, or an exempt child welfare agency as
27 defined at § 9-28-402(12) until the ~~relative's~~ home is opened as a regular
28 foster home, as a provisional foster home if the person is a relative, or the
29 court grants custody of the juvenile to the relative or person after a
30 written approved home study is presented to the court.

31 (B) For placement only with a relative:

32 (i) The juvenile may be placed in the home of a
33 relative on a provisional basis for up to six (6) months pending the
34 relative's home being opened as a regular foster home.

35 (ii) If the relative opts to have his or her home
36 opened as a provisional foster home, the relative shall not be paid a board

1 payment until the relative meets all of the requirements and is opened as a
2 regular foster home;

3 (iii) Until the relative's home is opened as a
4 regular foster home, the relative may apply for and receive benefits for
5 which the relative may be entitled due to the placement of the juvenile in
6 the home, such as benefits under the Temporary Employment Assistance Program,
7 § 20-76-401, and food stamps; and

8 (iv) If the relative's home is not fully licensed as
9 a foster home after six (6) months of the placement of the juvenile in the
10 home:

11 (a) The department shall remove the juvenile
12 from the relative's home and close the relative's provisional foster home; or

13 (b) The court shall remove custody from the
14 department and grant custody of the juvenile to the relative subject to the
15 limitations outlined in subdivision (b)(5) of this section.

16 (5) If the court grants custody of the juvenile to the relative
17 or other person:

18 (A) The juvenile shall not be placed back in the custody
19 of the department while remaining in the home of the relative or other
20 person;

21 (B) The relative or other person shall not receive any
22 financial assistance, including board payments, from the department, except
23 for financial assistance for which the relative has applied and for which the
24 relative or other person qualifies pursuant to the program guidelines, such
25 as the Transitional Employment Assistance Program, § 20-76-401, food stamps,
26 Medicaid, and the federal adoption subsidy; and

27 (C) The department shall not be ordered to pay the
28 equivalent of board payments or adoption subsidies to the relative or other
29 person as reasonable efforts to prevent removal of custody from the relative.

30 ~~(e)-(1)-(d)(1)~~ Juveniles who are in the custody of the department shall
31 be allowed trial placements with parents for a period not to exceed thirty
32 (30) days.

33 (2) At the end of thirty (30) days, either the court shall place
34 custody of the juvenile with the parent or the department shall return the
35 juvenile to a licensed or approved foster home, shelter, or facility, or an
36 exempt child welfare agency as defined in § 9-28-402(12).

1 ~~(d)~~(e) When a juvenile leaves the custody of the department and the
2 court grants custody to the parent or another person, the department is no
3 longer legal custodian of the juvenile, even if the juvenile division of
4 circuit court retains jurisdiction.

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6 SECTION 2. Arkansas Code Annotated § 9-28-402, regarding definitions
7 under the Child Welfare Agency Licensing Act, is amended to add the following
8 two (2) subdivisions to read as follows:

9 (22) "Provisional foster home" means a foster home opened for no
10 more than six (6) months by the Division of Children and Family Services of
11 the Department of Human Services for a relative of a child in the custody of
12 the division after the division conducts:

13 (A) A health and safety check, including a central
14 registry check and a criminal background check or check with local law
15 enforcement, on the relative and the relative's home; and

16 (B) A visual inspection of the home of the relative; and

17 (23) "Relative" means a person within the fifth degree of
18 kinship by virtue of blood or adoption.

19
20 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
21 General Assembly of the State of Arkansas that it is the best interest of the
22 children of Arkansas that the effectiveness of this act shall be immediate;
23 that in the event of an extension of the regular session, the delay in the
24 effective date of this act could do irreparable harm to the children of this
25 state as well as to interfere with the proper administration and provision of
26 essential governmental programs; and that this act is immediately necessary
27 to ensure that the placement of children removed from their homes is made in
28 the best interests of the children who are removed from their homes.
29 Therefore, an emergency is declared to exist and this act being immediately
30 necessary for the preservation of the public peace, health, and safety shall
31 become effective on:

32 (1) The date of its approval by the Governor;

33 (2) If the bill is neither approved nor vetoed by the Governor,
34 the expiration of the period of time during which the Governor may veto the
35 bill; or

36 (3) If the bill is vetoed by the Governor and the veto is

1 overridden, the date the last house overrides the veto.

2 */s/ Madison*

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5 *APPROVED: 3/15/2005*

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