

ARKANSAS SENATE
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 1658
"AN ACT TO AMEND THE JUVENILE CODE OF 1989."

Amendment No. 1 to House Bill No. 1658.

Amend House Bill No. 1658 as engrossed, 03/20/03:

Page 15, line 5, add the following:

"(j) Custody of a juvenile shall not be transferred to the department when a delinquency petition or case is converted to a FINS petition or case."

AND

Page 15, line 6 delete "§ 9-27-332(a)(4)" and substitute "§ 9-27-332(a)"

AND

Page 15, delete lines 8 through 16 and substitute:

"(a) If a family is found to be in need of services, the court may enter an order making any of the following dispositions:

(1)(A)(i) Order family services.

~~(ii)(a) At least five (5) working days prior to ordering the Department of Human Services, excluding community based providers, to provide or pay for family services, the court shall fax a written notice of intent to the Director of the Department of Human Services and to the attorney of the local Office of Chief Counsel of the Department of Human Services.~~

~~(b) At any hearing in which the department is ordered to provide family services, the court shall provide the department with the opportunity to be heard.~~

~~(c) Failure to provide at least five (5) working days' notice to the department renders any part of the order pertaining to the department void.~~

~~(B)(i) In all cases in which family services are ordered, the court shall determine the parent's, guardian's, or custodian's ability to pay, in whole or in part, for these services.~~

~~(ii) This determination and the evidence supporting it shall be made in writing in the order ordering family services.~~

~~(iii) If the court determines that the parent, guardian, or custodian is able to pay, in whole or part, for the services,~~



~~the court shall enter a written order setting forth the amounts the parent, guardian, or custodian can pay for the family services ordered and ordering the parent, guardian, or custodian to pay the amount periodically to the provider from whom family services are received.~~

~~(iv) For purposes of this subsection:~~

~~(a) "Periodically" means a period of time no greater than once per month; and~~

~~(b) Further, that "parent, guardian, and custodian" means the individual or individuals from whom custody was removed.~~

~~(v) In making its determination, the court shall consider the following factors:~~

~~(a) The financial ability of the parent, both parents, the guardian, or the custodian to pay for such services;~~

~~(b) The past efforts of the parent, both parents, the guardian, or the custodian to correct the conditions that resulted in the need for family services; and~~

~~(c) Any other factors that the court deems relevant;~~

(ii)(a) To rehabilitate the juvenile and his or her family; if the department is the provider for family services, the family services shall be limited to those services available by the Department of Human Services community based providers or contractors, excluding Division of Children & Family Services contractors, and department services for which the family applies and is determined eligible.

(b) To prevent removal and the department is the provider for family services, the court shall make written findings outlining how each service is intended to prevent removal.

(2)(A) If it is in the best interest of the juvenile, transfer custody of juvenile family members ~~to the department,~~ to another licensed agency responsible for the care of juveniles, or to a relative or other individual.

(B) If it is in the best interest of the juvenile and because of acts or omissions by the parent, guardian or custodian, removal is necessary to protect the juvenile's health and safety, transfer custody to the department.

~~(B) If the court grants custody of the juvenile to the department, the juvenile shall be placed in a licensed or approved foster home, shelter, or facility or an exempt child welfare agency as defined at § 9-28-402(12);~~

(3) Grant permanent custody to an individual upon proof:

(A) That the parent or guardian from whom the juvenile has been removed has not complied with the orders of the court; or

(B) That no reunification services should be required to reunite the juvenile with his or her parent or parents and that no further services or periodic reviews are required;

(4)(A) Order that the parent, both parents, or the guardian of the juvenile attend a court-ordered parental responsibility training program, if available.

(B) The court may make reasonable orders requiring proof of completion of such a training program within a certain time period and payment of a fee covering the cost of the training program.

~~(C) The court may provide that any violation of such orders shall subject the parent, both parents, or the guardian to contempt sanctions of the court;~~

(5) Place the juvenile on residential detention with electronic monitoring in the juvenile's home;

(6) Order the juvenile, his or her parent, both parents, or guardian to perform court-approved volunteer service in the community designed to contribute to the rehabilitation of the juvenile or the ability of the parent or guardian to provide proper parental care and supervision of the juvenile, not to exceed one hundred sixty (160) hours;

(7)(A) Place the juvenile on supervision terms including, but not limited to, requiring the juvenile to attend school or make satisfactory progress toward a general education development certificate, requiring the juvenile to observe a curfew, and prohibiting the juvenile from possessing or using any alcohol or illegal drugs.

(B) The supervision terms shall be in writing.

(C) The supervision terms shall be given to the juvenile and explained to the juvenile and to his or her parent, guardian, or custodian by the juvenile intake or probation officer in a conference immediately following the disposition hearing;

(8)(A) Order a fine not to exceed five hundred dollars (\$500) to be paid by the juvenile, a parent, both parents, a guardian, or a custodian when the juvenile exceeds the number of excessive unexcused absences provided for in the student attendance policy of the district or the State Board of Workforce Education and Career Opportunities.

(B) The purpose of the penalty set forth in this section is to impress upon the parents, guardians, or persons in loco parentis the importance of school or adult education attendance, and the penalty is not to be used primarily as a source of revenue.

(C)(i) In all cases in which a fine is ordered, the court shall determine the parent's, guardian's, or custodian's ability to pay for the fine.

(ii) In making its determination, the court shall consider the following factors:

(a) The financial ability of the parent, both parents, the guardian, or the custodian to pay for such services;

(b) The past efforts of the parent, both parents, the guardian, or the custodian to correct the conditions that resulted in the need for family services; and

(c) Any other factors that the court deems relevant.

(D) When practicable and appropriate, the court may utilize mandatory attendance to such programs as well as community service requirements in lieu of a fine;

(9) Assess a court cost of no more than thirty-five dollars (\$35.00) to be paid by the juvenile, his or her parent, both parents, the guardian, or the custodian; and

(10) Order a juvenile service fee not to exceed twenty dollars (\$20.00) a month to be paid by the juvenile, his or her parent, both parents, the guardian, or the custodian.

AND

Page 15, overstrike lines 30 through 36

AND

Page 16, overstrike lines 1 though 4

AND

Page 16, delete line 5 and substitute: "~~the department void;~~"

AND

Page 16, delete lines 6 through 17

AND

Page 23, line 34 add the following new sections:

"SECTION 27. Arkansas Code § 9-27-333 is amended as follows:

(a) At least five (5) working days prior to ordering the Department of Human Services, excluding community-based providers, to provide or pay for family services, the court shall fax a written notice of intent to the Director of the Department of Human Services and to the attorney of the local Office of Chief Counsel of the Department of Human Services.

(b) At any hearing in which the department is ordered to provide family services, the court shall provide the department with the opportunity to be heard.

(c) Failure to provide at least five (5) working days' notice to the department renders any part of the order pertaining to the department void.

(d) For purposes of this section, the court shall not specify a particular provider for placement or family services, when the department is the payor or provider.

(e)(1) In all cases in which family services are ordered, the court shall determine the parent's, guardian's, or custodian's ability to pay, in whole or in part, for these services.

(2) This determination and the evidence supporting it shall be made in writing in the order ordering family services.

(3) If the court determines that the parent, guardian, or custodian is able to pay, in whole or part, for the services, the court shall enter a written order setting forth the amounts the parent, guardian, or custodian can pay for the family services ordered and ordering the parent, guardian, or custodian to pay the amount periodically to the provider from whom family services are received.

(4) For purposes of this subsection:

(A) "Periodically" means a period of time no greater than once per month; and

(B) Further, that "parent, guardian, and custodian" means the individual or individuals from whom custody was removed.

(5) In making its determination, the court shall consider the following factors:

(A) The financial ability of the parent, both parents, the guardian, or the custodian to pay for such services;

(B) The past efforts of the parent, both parents, the guardian, or the custodian to correct the conditions that resulted in the need for family services; and

(C) Any other factors that the court deems relevant.

(f) Custody of a juvenile may be transferred to a relative or other individual only after a full investigation of the placement is conducted by the Department of Human Services and submitted to the court in writing and the court determines that the placement is in the best interest of the juvenile.

(g) Custody of a juvenile shall not be transferred to the department when a delinquency petition or case is converted to a FINS petition or case.”

SECTION 28: Arkansas Code § 9-27-335 is amended as follows:

(a)(1) At least five (5) working days prior to ordering the Department of Human Services, excluding community-based providers, to provide or pay for family services, in any case in which the department is not a party, the court shall fax a written notice of intent to the Director of the Department of Human Services and to the attorney of the local Office of Chief Counsel of the Department of Human Services.

(2) At any hearing in which the department is ordered to provide family services, the court shall provide the department with the opportunity to be heard.

(3) Failure to provide at least five (5) working days' notice to the department renders any part of the order pertaining to the department void.

(b) For purposes of this section, the court shall not specify a particular provider for placement or family services, when the department is the payor or provider.

(c)(1) In all cases in which family services are ordered, the court shall determine the parent's, guardian's, or custodian's ability to pay, in whole or in part, for these services.

(2) The determination of ability to pay and the evidence supporting it shall be made in writing in the order ordering family services.

(3) If the court determines that the parent, guardian, or custodian is able to pay, in whole or in part, for the services, the court shall enter a written order setting forth the amounts the parent, guardian, or custodian is able to pay for the family services ordered and order the parent, guardian, or custodian or pay the amount periodically to the provider from whom family services are received;

~~(a)~~(d) Custody of a juvenile may be transferred to a relative or other individual only after a full investigation of the placement is conducted by the Department of Human Services and submitted to the court in writing and the court determines that the placement is in the best interest of the juvenile.

~~(b)~~(e)(1)(A) The court shall enter orders transferring custody of juveniles in dependency-neglect cases only after determining that reasonable efforts have been made by the department to deliver family services designed to prevent the need for out-of-home placement and that the need for out-of-home placement exists.

(B) The juvenile's health and safety shall be the paramount concern for the court in determining whether or not the department could have provided reasonable efforts to prevent the juvenile's removal.

(2) If the court finds that reasonable efforts to deliver family services could have been made with the juvenile safely remaining at home but were not made, the court may:

(A) Dismiss the petition;

(B) Order family services reasonably calculated to prevent the need for out-of-home placement; or

(C) Transfer custody of the juvenile despite the lack of reasonable efforts by the department to prevent the need for out-of-home placement, if such a transfer of custody is necessary:

(i) To protect the juvenile's health and safety; or

(ii) To prevent the juvenile from being removed from the jurisdiction of the court.

~~(e)~~(f) In a case of medical neglect involving a child receiving treatment through prayer alone in accordance with a religious method of healing in lieu of medical care, the adjudication order shall be limited to:

(1) Preventing or remedying serious harm to the child; or

(2) Preventing the withholding of medically indicated treatment from a child with a life-threatening condition.

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Madison

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Secretary