

Hall of the House of Representatives
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 2457
"AN ACT TO AMEND THE JUVENILE CODE."

Amendment No. 2 to House Bill No. 2457.

Amend House Bill No. 2457 as engrossed, 03/19/03:

Page 1, delete lines 34 through 36

AND

Page 2, delete lines 1 through 4 and substitute:

"(5) Juvenile proceedings shall comply with § 16-13-210, except detention hearings under § 9-27-326 and probable cause hearings under § 9-27-315."

AND

Page 7, delete lines 23 through 27 and substitute:

"(v)(a) The committing court may place the juvenile on probation and require the juvenile to follow the terms of probation or the terms the Division of Youth Services of the Department of Human Services aftercare plan upon release from Division of Youth Services of the Department of Human Services.

(b) The Division of Youth Services may petition the court for a hearing regarding a juvenile's aftercare violation.

(c) The Division of Youth Services may request detention or recommitment and the court may order such upon a finding by a preponderance of the evidence that the juvenile violated the terms of the aftercare plan;"

AND

Page 7, delete lines 33 through 35 and substitute:

"submit to physical, psychiatric, or psychological evaluations;"

AND

Page 12, line 21 add the following new section:

"SECTION 8. Arkansas Code § 9-27-331 is amended to add an additional



subsection to read as follows:

(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

By appropriately renumbering subsequent sections

AND

Page 12 delete lines 27 through 36 and substitute:

~~“(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)”~~

AND

Page 13 delete lines 1 through 30 and substitute:

~~“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 and 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.”

AND

Page 13, line 32 delete “to the department,” and substitute “~~to the department,~~”

AND

Page 13, delete lines 35 and 36 and substitute:

“(B) If the court grants custody of the juvenile to the department, the juvenile shall be placed in a licensed or approved foster”

AND

Page 14, delete lines 1 and 2 and substitute:

“~~home, shelter, or facility or an exempt child welfare agency as defined at § 9-28-402(12)~~ (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;”

AND

Page 15, line 31 add the following new section:

“SECTION 10. Arkansas Code § 9-27-333 is amended to read 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."

AND

Appropriately renumber subsequent sections

AND

Page 16, delete lines 1 through 15 and substitute:

~~"(B)(i) 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 said 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.~~

~~(ii) 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.~~

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

AND

Page 17, line 7 add the following new section:

"SECTION 12. Arkansas Code § 9-27-335 is amended to read 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 said 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."

AND

Appropriately renumber subsequent sections

The Amendment was read _____
By: Representative Martin
PBB/APK - 040120031219
ONE415 _____ Chief Clerk