

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.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: H3/24/03 S3/31/03

A Bill

HOUSE BILL 2471

5 By: Representative Martin
6
7

For An Act To Be Entitled

9 AN ACT CONCERNING ADOPTIONS AND JUVENILE
10 PROCEEDINGS SUBSEQUENT TO PASSAGE OF AMENDMENT
11 80; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 AN ACT CONCERNING ADOPTIONS AND JUVENILE
16 PROCEEDINGS SUBSEQUENT TO PASSAGE OF
17 AMENDMENT 80.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 *SECTION 1. Arkansas Code § 9-9-217(a)(2)(B), concerning adoptions and*
23 *juvenile proceedings subsequent to passage of Amendment 80, is amended to*
24 *read as follows:*

25 *(B) When an adoption is filed or heard ~~in the juvenile~~*
26 *~~division of the chancery court~~ pursuant to §§ 9-27-301 - 9-27-345, any*
27 *portion of the court file relating to the adoption shall be maintained*
28 *separately from the file of other pending juvenile ~~court~~ matters concerning*
29 *the juvenile who is the subject of the adoption or the family of the*
30 *juvenile. Once final disposition is made in the adoption proceedings, the*
31 *adoption file shall be transferred from the clerk who is the custodian of*
32 *juvenile records ~~of the juvenile division of the chancery court~~ to the clerk*
33 *who is the custodian of records ~~of the probate court~~. The entry of the*
34 *adoption decree will ~~not be entered in the juvenile court order book, but~~*
35 *~~will be entered by the clerk of the probate court in the probate court order~~*
36 *book in the book containing adoption records. The ~~probate~~ clerk shall assign*



1 the file a docket number, shall prepare an application for a new birth record
 2 as provided herein, and shall maintain the file as if the case had originated
 3 ~~in probate court as an adoption case~~. No filing fee shall be assessed by the
 4 clerk ~~of the probate court~~ upon the transfer and creation of the ~~probate~~ new
 5 adoption file. Any adoption record ~~currently in the custody of the clerk of~~
 6 ~~the chancery court shall be transferred to the clerk of the probate court, to~~
 7 be handled as provided herein.

8
 9 SECTION 2. Arkansas Code § 9-27-303(11), concerning definitions in the
 10 Juvenile Code, is amended to read as follows:

11 (11) "Court" ~~or "juvenile court"~~ means the juvenile division of
 12 ~~chancery circuit~~ circuit court;

13
 14 SECTION 3. Arkansas Code § 9-27-305 is amended to read as follows:
 15 9-27-305. Applicability.

16 Any juvenile within this state may be subjected to the care, custody,
 17 control, and jurisdiction of the ~~juvenile~~ circuit court.

18
 19 SECTION 4. Arkansas Code § 9-27-306 is amended to read as follows:
 20 9-27-306. Jurisdiction.

21 (a) The ~~juvenile~~ circuit court shall have exclusive original
 22 jurisdiction of and shall be the sole court for the following proceedings
 23 governed by this subchapter including, but not limited to:

24 (1) Proceedings in which a juvenile is alleged to be delinquent
 25 or dependent-neglected as defined in this subchapter;

26 (2) Proceedings in which a family is alleged to be in need of
 27 services as defined in this subchapter;

28 (3) Proceedings for termination of parental rights for a
 29 juvenile who is under the jurisdiction of the ~~juvenile~~ circuit court; and

30 (4) Proceedings in which custody of a juvenile is transferred to
 31 the Department of Human Services.

32 ~~(b) The juvenile court shall have exclusive jurisdiction of the~~
 33 ~~following matters, governed by other law, that arise during the pendency of~~
 34 ~~original proceedings under subsection (a) of this section and involve the~~
 35 ~~same juvenile;~~

36 ~~(1) Adoptions under the Revised Uniform Adoption Act, § 9-9-201~~

1 ~~et seq.,~~

2 ~~(2) Guardianships under § 28-65-201 et seq., or~~

3 ~~(3) Uniform Interstate Family Support Act proceedings, § 9-17-~~
4 ~~101 et seq.~~

5 ~~(c) The juvenile court shall have concurrent jurisdiction with probate~~
6 ~~court for civil commitment of juveniles.~~

7 ~~(d) The juvenile court shall have concurrent jurisdiction with the~~
8 ~~chancery court for proceedings for the establishment of paternity, custody,~~
9 ~~visitation, or support of a juvenile alleged to be illegitimate.~~

10 ~~(e)(1) The juvenile court shall have concurrent jurisdiction with~~
11 ~~municipal court for juvenile curfew ordinance violations.~~

12 ~~(2) The prosecuting authority may file a family in need of~~
13 ~~services petition in juvenile court or a citation in municipal court.~~

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

17 (c)(1) The circuit court shall have concurrent jurisdiction with
18 the district court over juvenile curfew violations.

19 (2) For juvenile curfew violations, the prosecutor may file
20 a FINS petition in circuit court or a citation in district court.

21 ~~(f)(d)~~ The juvenile circuit court shall have jurisdiction to hear
22 proceedings commenced in any court of this state or court of comparable
23 jurisdiction of another state which are transferred to it pursuant to the
24 Uniform Child Custody Jurisdiction and Enforcement Act, § 9-19-101 et seq.

25
26 SECTION 5. Arkansas Code § 9-27-308 is amended to read as follows:

27 9-27-308. Personnel - Duties.

28 (a) INTAKE OFFICERS.

29 (1) The judge of the juvenile court or judges of the circuit
30 court designated to hear juvenile cases in their district plan under Arkansas
31 Supreme Court Administrative Order Number 14, originally issued April 6, 2001
32 shall designate no less than one (1) person in his judicial district as
33 intake officer for the court.

34 (2)(A) An intake officer shall have the following duties:

35 (i) To receive and investigate complaints and
36 charges that a juvenile is delinquent or dependent-neglected, or that a

1 family is in need of services;

2 (ii) To make appropriate referrals to other public
3 or private agencies of the community if their assistance appears to be needed
4 or desired; and

5 (iii) To perform all other functions assigned to him
6 or her by this subchapter, by rules promulgated pursuant thereto, or by order
7 of the court.

8 (B) Any of the foregoing functions may be performed in
9 another state if authorized by a court of this state and permitted by the
10 laws of the other state.

11 (3) In the event that the intake officer has reasonable cause to
12 suspect that a juvenile has been subjected to child maltreatment as defined
13 at § 12-12-503(6), the intake officer shall immediately notify the central
14 intake of the Department of Human Services.

15 (b) PROBATION OFFICERS.

16 (1) The judge of the juvenile court or judges of the circuit
17 court designated to hear juvenile cases in their district plan under Arkansas
18 Supreme Court Administrative Order Number 14, originally issued April 6,
19 2001, shall designate no less than one (1) person in his or her judicial
20 district as probation officer.

21 (2) A probation officer shall have the following duties:

22 (A) To make appropriate investigations and reports when
23 required to do so by any provision of this subchapter or the rules
24 promulgated pursuant thereto or by order of the court;

25 (B) To aid and counsel juveniles and their families when
26 required to do so by order of the court;

27 (C) To perform all other appropriate functions assigned to
28 him or her by this subchapter or the rules promulgated pursuant thereto or by
29 order of the juvenile court;

30 (D) To give appropriate aid and assistance to the court
31 when requested to do so by the judge.

32
33 SECTION 6. Arkansas Code § 9-27-309(d) through (f), concerning
34 confidentiality of adoption records, is amended to read as follows:

35 (d)(1) If an adult criminal sentence is imposed on an extended
36 juvenile jurisdiction offender, the record of that case shall be considered

1 an adult criminal record.

2 (2)(A) The ~~juvenile~~ court shall enter an order transferring the
3 juvenile record to the clerk who is the custodian of adult criminal records.

4 (B) The clerk shall assign a ~~circuit~~ criminal docket
5 number and shall maintain the file as if the case had originated ~~in circuit~~
6 court as a criminal case.

7 (e) Nothing in this section applies to or restricts the use or
8 publication of statistics, data, or other materials which summarize or refer
9 to any records, reports, statements, notes, or other information in the
10 aggregate and which do not refer to or disclose the identity of any juvenile
11 defendant in any proceeding when used only for the purpose of research and
12 study.

13 (f) Nothing in this subchapter shall preclude prosecuting attorneys or
14 the ~~juvenile~~ court from providing information, upon written request,
15 concerning the disposition of juveniles who have been adjudicated delinquent
16 to:

17 (1) The victim or his or her next of kin; or

18 (2) The school superintendent of the school district in which
19 the juvenile is currently enrolled.

20
21 SECTION 7. Arkansas Code § 9-27-310 is amended to read as follows:

22 9-27-310. Commencement of proceedings.

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

25 (b)(1) The prosecuting attorney shall have sole authority to file a
26 delinquency petition or petition for revocation of probation.

27 (2) Only a law enforcement officer, prosecuting attorney, or the
28 Department of Human Services or its designee may file a dependency-neglect
29 petition seeking ex parte emergency relief.

30 (3) Petitions for dependency-neglect or family in need of
31 services may be filed by:

32 (A) Any adult; or

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

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

36 (A) The biological mother;

- 1 (B) A putative father;
- 2 (C) A juvenile; or
- 3 (D) The Office of Child Support Enforcement of the Revenue
- 4 Division of the Department of Finance and Administration.

5 (c) Concurrent with filing, a copy of any petition which requests that
6 the Department of Human Services take custody or provide family services
7 shall be mailed to the Director of the Department of Human Services and to
8 the local Office of Chief Counsel of the Department of Human Services
9 attorney by the petitioner.

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

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

15 (e) No fees, including, but not limited to, fees for filings,
16 including petitions for adoption and guardianships, summons, or subpoenas
17 shall be charged or collected by the clerk in cases brought in the ~~juvenile~~
18 ~~division of chancery~~ circuit court under this subchapter by a governmental
19 entity or nonprofit corporation, including, but not limited to, the
20 prosecuting attorney, an attorney ad litem appointed in a dependency-neglect
21 case, or the department.

22

23 SECTION 8. Arkansas Code § 9-27-313 is amended to read as follows:
24 9-27-313. Taking into custody.

25 (a)(1) A juvenile may be taken into custody without a warrant prior to
26 service upon him or her of a petition and notice of hearing or order to
27 appear as set out under § 9-27-312, only:

28 (A) Pursuant to an order of the court under this
29 subchapter;

30 (B) By a law enforcement officer without a warrant under
31 circumstances as set forth in the Arkansas Rules of Criminal Procedure, Rule
32 4.1; or

33 (C) By a law enforcement officer or by a duly authorized
34 representative of the Department of Human Services if there are clear,
35 reasonable grounds to conclude that the juvenile is in immediate danger and
36 that removal is necessary to prevent serious harm from his or her

1 surroundings or from illness or injury and if parents, guardians, or others
2 with authority to act are unavailable or have not taken action necessary to
3 protect the juvenile from the danger and there is not time to petition for
4 and to obtain an order of the court prior to taking the juvenile into
5 custody.

6 (2) When any juvenile is taken into custody without a warrant,
7 the officer taking the juvenile into custody shall immediately make every
8 effort possible to notify the custodial parent, guardian, or custodian of the
9 juvenile's location.

10 (b)(1) When any juvenile is taken into custody pursuant to a warrant,
11 the officer taking the juvenile into custody shall immediately take the
12 juvenile before the judge of the division of circuit court out of which the
13 warrant was issued and make every effort possible to notify the custodial
14 parent, guardian, or custodian of the juvenile's location.

15 (2) The judge shall decide whether ~~jurisdiction is in the~~
16 ~~juvenile division or criminal division of circuit court~~ the juvenile should
17 be tried as a delinquent or a criminal defendant pursuant to § 9-27-318.

18 (c) When a law enforcement officer, a representative of the
19 department, or other authorized person takes custody of a juvenile alleged to
20 be dependent-neglected or pursuant to the Arkansas Child Maltreatment Act, §
21 12-12-501 et seq., he or she shall:

22 (1)(A) Notify the department and make every possible effort to
23 notify the custodial parent, guardian, or custodian of the juvenile's
24 location.

25 (B) The notification to the parents shall be in writing
26 and shall include a notice:

27 (i) That the juvenile has been taken into foster
28 care;

29 (ii) Of the name, location, and phone number of the
30 person at the department whom they can contact about the juvenile;

31 (iii) Of the juvenile's and parents' rights to
32 receive a copy of any petition filed under this subchapter;

33 (iv) Of the location and telephone number of the
34 court; and

35 (v) Of the procedure for obtaining a hearing; or

36 (2) Return the juvenile to his or her home.

1 (d)(1)(A) A law enforcement officer shall take a juvenile to
2 detention, immediately make every effort to notify the custodial parent,
3 guardian, or custodian of the juvenile's location, and notify the juvenile
4 ~~court~~ intake officer within twenty-four (24) hours so that a petition may be
5 filed if a juvenile is taken into custody for:

6 (i) Unlawful possession of a handgun, § 5-73-
7 119(a)(1)(A);

8 (ii) Possession of a handgun on school property, §
9 5-73-119(a)(2)(A);

10 (iii) Unlawful discharge of a firearm from a
11 vehicle, § 5-74-107;

12 (iv) Any felony committed while armed with a
13 firearm; or

14 (v) Criminal use of a prohibited weapon, § 5-73-104.

15 (B) The authority of a juvenile intake officer to make a
16 detention decision pursuant to § 9-27-322 shall not apply when a juvenile is
17 detained pursuant to subdivision (d)(1)(A) of this section.

18 (C) A detention hearing shall be held by the court
19 pursuant to § 9-27-326 within seventy-two (72) hours after the juvenile is
20 taken into custody or, if the seventy-two (72) hours ends on a Saturday,
21 Sunday, or holiday, on the next business day.

22 (2) If a juvenile is taken into custody for an act that would be
23 a felony if committed by an adult, other than a felony listed in subdivision
24 (d)(1)(A) of this section, the law enforcement officer shall immediately make
25 every effort possible to notify the custodial parent, guardian, or custodian
26 of the juvenile's location and may:

27 (A)(i) Take the juvenile to detention.

28 (ii) The intake officer shall be notified
29 immediately to make a detention decision pursuant to § 9-27-322 within
30 twenty-four (24) hours of the time the juvenile was first taken into custody,
31 and the prosecuting attorney shall be notified within twenty-four (24) hours.

32 (iii) If the juvenile remains in detention, a
33 detention hearing shall be held no later than seventy-two (72) hours after
34 the juvenile is taken into custody or, if the seventy-two (72) hours ends on
35 a Saturday, Sunday, or holiday, on the next business day;

36 (B) Pursuant to the Arkansas Rules of Criminal Procedure,

1 issue a citation for the juvenile and his or her parents to appear for a
2 first appearance before the ~~juvenile~~ circuit court and release the juvenile
3 and, within twenty-four (24) hours, notify the juvenile intake officer and
4 the prosecuting attorney so that a petition may be filed under this
5 subchapter; or

6 (C) Return the juvenile to his or her home.

7 (3) If a juvenile is taken into custody for an act that would be
8 a misdemeanor if committed by an adult, the law enforcement officer shall
9 immediately make every effort possible to notify the custodial parent,
10 guardian, or custodian of the juvenile's location and may:

11 (A) Notify the juvenile intake officer, who shall make a
12 detention decision pursuant to § 9-27-322; or

13 (B) Pursuant to the Arkansas Rules of Criminal Procedure,
14 issue a citation for the juvenile and his or her parents to appear for a
15 first appearance before the ~~juvenile~~ circuit court and release the juvenile
16 and, within twenty-four (24) hours, notify the juvenile intake officer and
17 the prosecuting attorney so that a petition may be filed under this
18 subchapter; or

19 (C) Return the juvenile to his or her home.

20 (4)(A) In all instances when a juvenile may be detained, the
21 juvenile may be held in a juvenile detention facility or a seventy-two-hour
22 holdover if a bed is available therein.

23 (B) If not, an adult jail or lock-up may be used as
24 provided by § 9-27-336.

25 (5) In all instances when a juvenile may be detained, the intake
26 officer shall immediately make every effort possible to notify the juvenile's
27 custodial parent, guardian, or custodian.

28 (e) When a law enforcement officer takes custody of a juvenile under
29 this subchapter for reasons other than those specified in subsection (c) of
30 this section concerning dependent-neglected juveniles, or subsection (d) of
31 this section concerning delinquency, he or she shall:

32 (1)(A)(i) Take the juvenile to shelter care, notify the
33 department and the intake officer of the ~~juvenile~~ circuit court, and
34 immediately make every possible effort to notify the custodial parent,
35 guardian, or custodian of the juvenile's location.

36 (ii) The notification to parents shall be in writing

1 and shall include a notice of the location of the juvenile, of the juvenile's
2 and parents' rights to receive a copy of any petition filed under this
3 subchapter, of the location and telephone number of the court, and of the
4 procedure for obtaining a hearing.

5 (B)(i) In cases when the parent, guardian, or other person
6 contacted lives beyond a fifty-mile driving distance or out-of-state and the
7 juvenile has been absent from his or her home or domicile for more than
8 twenty-four (24) hours, the juvenile may be held in custody in a juvenile
9 detention facility for purposes of identification, processing, or arranging
10 for release or transfer to an alternative facility.

11 (ii) The holding shall be limited to the minimum
12 time necessary to complete these actions and shall not occur in any facility
13 utilized for incarceration of adults.

14 (iii) A juvenile held under subdivision (e)(1)(B) of
15 this section must be separated from detained juveniles charged or held for
16 delinquency.

17 (iv) A juvenile may not be held under subdivision
18 (e)(1)(B) of this section for more than six (6) hours if the parent,
19 guardian, or other person contacted lives in the state or twenty-four (24)
20 hours, excluding weekends and holidays, if the parent, guardian, or other
21 person contacted lives out-of-state; or

22 (2) Return the juvenile to his or her home.

23 (f) If no petition to adjudicate a juvenile taken into custody is
24 filed within twenty-four (24) hours after a detention hearing or ninety-six
25 (96) hours after a juvenile is taken into custody, whichever is sooner, the
26 juvenile shall be discharged from custody, detention, or shelter care.

27

28 SECTION 9. Arkansas Code § 9-27-316 is amended to read as follows:
29 9-27-316. Right to counsel.

30 (a)(1) In delinquency and families in need of services cases, a
31 juvenile and his or her parent, guardian, or custodian shall be advised by
32 the law enforcement official taking a juvenile into custody, by the intake
33 officer at the initial intake interview, and by the court at the juvenile's
34 first appearance before the court that the juvenile has the right to be
35 represented at all stages of the proceedings by counsel.

36 (2) An extended juvenile jurisdiction offender shall have a

1 right to counsel at every stage of the proceedings, including all reviews.

2 (b)(1)(A) The inquiry concerning the ability of the juvenile to retain
3 counsel shall include a consideration of the juvenile's financial resources
4 and the financial resources of his or her family.

5 (B) However, the failure of the juvenile's family to
6 retain counsel for the juvenile shall not deprive the juvenile of the right
7 to appointed counsel if required under this section.

8 (2) After review by the court of an affidavit of financial means
9 completed and verified by the parent of the juvenile and a determination by
10 the court that the parent or juvenile has the ability to pay, the court may
11 order financially able juveniles, parents, guardians, or custodians to pay
12 all or part of reasonable attorney's fees and expenses for representation of
13 a juvenile.

14 (3) All moneys collected by the clerk of the court under this
15 subsection shall be retained by the clerk and deposited into a special fund
16 to be known as the "juvenile ~~court~~ representation fund".

17 (4) The court may direct that money from this fund be used in
18 providing counsel for juveniles under this section in delinquency or family
19 in need of services cases and indigent parents or guardians in dependency-
20 neglect cases as provided by subsection (h) of this section.

21 (5) Any money remaining in the fund at the end of the fiscal
22 year shall not revert to any other fund but shall carry over into the next
23 fiscal year in the juvenile ~~court~~ representation fund.

24 (c) If counsel is not retained for the juvenile, or it does not appear
25 that counsel will be retained, counsel shall be appointed to represent the
26 juvenile at all appearances before the court, unless the right to counsel is
27 waived in writing as set forth in § 9-27-317.

28 (d) In a proceeding in which the judge determines that there is a
29 reasonable likelihood that the proceeding may result in the juvenile's
30 commitment to an institution in which the freedom of the juvenile would be
31 curtailed and counsel has not been retained for the juvenile, the court shall
32 appoint counsel for the juvenile.

33 (e) Appointment of counsel shall be made at a time sufficiently in
34 advance of the court appearance to allow adequate preparation by appointed
35 counsel and adequate consultation between the appointed counsel and the
36 client.

1 (f)(1) The court shall appoint an attorney ad litem who shall meet
2 standards and qualifications established by the Arkansas Supreme Court to
3 represent the best interests of the juvenile when a dependency-neglect
4 petition is filed or when an emergency ex parte order is entered in a
5 dependency-neglect case, whichever occurs earlier.

6 (2) The court may appoint an attorney ad litem to represent the
7 best interests of a juvenile involved in any case before the court and shall
8 consider the juvenile's best interests in determining whether to appoint an
9 attorney ad litem.

10 (3) Each attorney ad litem:

11 (A) Shall file written motions, responses, or objections
12 at all stages of the proceedings when necessary to protect the best interests
13 of the juvenile;

14 (B) Shall attend all hearings and participate in all
15 telephone conferences with the court unless excused by the court; and

16 (C) Shall present witnesses and exhibits when necessary to
17 protect the juvenile's best interests.

18 (4) An attorney ad litem shall be provided access to all records
19 relevant to the juvenile's case, including, but not limited to, school
20 records, medical records, ~~juvenile~~ all court records, relating to the
21 juvenile and his or her family and records of the Department of Human
22 Services, to the extent permitted by federal law.

23 (5)(A) An attorney ad litem shall represent the best interests
24 of the juvenile.

25 (B) If the juvenile's wishes differ from the attorney's
26 determination of the juvenile's best interests, the attorney ad litem shall
27 communicate the juvenile's wishes to the court in addition to presenting his
28 or her determination of the juvenile's best interests.

29 (g)(1) The court may appoint a volunteer court-appointed special
30 advocate from a program which shall meet all state and national court-
31 appointed special advocate standards to advocate for juveniles in dependency-
32 neglect proceedings.

33 (2) No court-appointed special advocate shall be assigned a case
34 before:

35 (A) Completing a training program in compliance with
36 National Court Appointed Special Advocate Association and state standards;

1 and

2 (B) Being approved by the local court-appointed special
3 advocate program which will include appropriate criminal background and child
4 abuse registry checks.

5 (3) Each court-appointed special advocate shall:

6 (A)(i) Investigate the case to which he or she is assigned
7 to provide independent factual information to the court through the attorney
8 ad litem or through court testimony and court reports.

9 (ii) The court-appointed special advocate may
10 testify if called as a witness.

11 (iii) When the court-appointed special advocate
12 prepares a written report for the court, the advocate shall provide all
13 parties with a copy of the written report seven (7) business days prior to
14 the relevant hearing;

15 (B) Monitor the case to which he or she is assigned to
16 ensure compliance with the court's orders; and

17 (C) Assist the attorney ad litem in representing the
18 juvenile's best interests.

19 (4) Upon presentation of an order of appointment, a court-
20 appointed special advocate shall be provided access to all records relevant
21 to the juvenile's case, including, but not limited to, school records,
22 medical records, ~~juvenile~~ all court records relating to the juvenile and his
23 or her family, and department records to the extent permitted by federal law.

24 (5) A court-appointed special advocate is not a party to the
25 case to which he or she is assigned and shall not call witnesses or examine
26 witnesses.

27 (6) A court-appointed special advocate shall not be liable for
28 damages for personal injury or property damage, pursuant to § 16-6-101 et
29 seq.

30 (7) Except as provided by this subsection, a court-appointed
31 special advocate shall not disclose any confidential information or reports
32 to anyone except as ordered by the court or otherwise provided by law.

33 (h)(1) In all proceedings to remove custody from a parent or guardian
34 or to terminate parental rights, the parent or guardian shall be advised, in
35 the dependency-neglect petition or the ex parte emergency order and the first
36 appearance before the court, of the right to be represented by counsel at all

1 stages of the proceedings and the right to appointed counsel if indigent.

2 (2) Upon request by a parent or guardian and a determination by
3 the court of indigence, the court shall appoint counsel for the parent or
4 guardian in all proceedings to remove custody or terminate parental rights of
5 a juvenile.

6 (3)(A) After review by the court of an affidavit of financial
7 means completed and verified by the parent or guardian and a determination by
8 the court of an ability to pay, the court shall order financially able
9 parents or guardians to pay all or a part of reasonable attorney's fees and
10 expenses for court-appointed representation of the parent or guardian.

11 (B)(i) All moneys collected by the clerk of the court
12 under this subsection shall be retained by the clerk and deposited into a
13 special fund to be known as the "juvenile ~~court~~ representation fund".

14 (ii) The court may direct that money from this fund
15 be used in providing counsel for indigent parents or guardians at the trial
16 level in dependency-neglect proceedings.

17 (iii) Upon a determination of indigency and a
18 finding by the court that the "juvenile ~~court~~ representation fund" does not
19 have sufficient funds to pay reasonable attorney's fees and expenses incurred
20 at the trial court level and state funds have been exhausted, the court may
21 order the county to pay these reasonable fees and expenses until the state
22 provides funding for such counsel.

23 (4)(A) Appointment of counsel shall be made at a time
24 sufficiently in advance of the court appearance to allow adequate preparation
25 by appointed counsel and adequate consultation between the appointed counsel
26 and the client.

27 (B) When the first appearance before the court is an
28 emergency hearing to remove custody pursuant to § 9-27-315, parents shall be
29 notified of the right to appointed counsel if indigent in the emergency ex
30 parte order.

31 (5) The parent's or guardian's attorney shall be provided access
32 to all records relevant to the juvenile's case, including, but not limited
33 to, school records, medical records, ~~juvenile~~ all court records relating to
34 the juvenile and his or her family, and department records to which the
35 parent or guardian is entitled under state and federal law.

36

1 SECTION 10. Arkansas Code § 9-27-318 is amended to read as follows:

2 9-27-318. ~~Waiver~~ Filing and transfer to the criminal division of
3 circuit court.

4 (a) ~~The juvenile division of circuit court has exclusive jurisdiction~~
5 ~~when a delinquency~~ The state may only proceed with a case as a delinquency
6 when the case involves a juvenile:

7 (1) Fifteen (15) years of age or younger when the alleged
8 delinquent act occurred, except as provided by subdivision (c)(2) of this
9 section; or

10 (2) Less than eighteen (18) years old when he or she engages in
11 conduct that, if committed by an adult, would be any misdemeanor.

12 (b) The state may file a motion in the juvenile division of circuit
13 court to transfer a case to the criminal division of circuit court or to
14 designate a ~~case~~ juvenile as an extended juvenile jurisdiction offender ~~case~~
15 when a case involves a juvenile:

16 (1) Fourteen (14) or fifteen (15) years old when he or she
17 engages in conduct that, if committed by an adult, would be:

18 (A) Murder in the second degree, § 5-10-103;

19 (B) Battery in the second degree in violation of § 5-13-
20 202(a)(2), (3), or (4);

21 (C) Possession of a handgun on school property, § 5-73-
22 119(a)(2)(A);

23 (D) Aggravated assault, § 5-13-204;

24 (E) Unlawful discharge of a firearm from a vehicle, § 5-
25 74-107;

26 (F) Any felony committed while armed with a firearm;

27 (G) Soliciting a minor to join a criminal street gang, §
28 5-74-203;

29 (H) Criminal use of prohibited weapons, § 5-73-104;

30 (I) First degree escape, § 5-54-110;

31 (J) Second degree escape, § 5-54-111; or

32 (K) A felony attempt, solicitation, or conspiracy to
33 commit any of the following offenses:

34 (i) Capital murder, § 5-10-101;

35 (ii) Murder in the first degree, § 5-10-102;

36 (iii) Murder in the second degree, § 5-10-103;

- (iv) Kidnapping, § 5-11-102;
- (v) Aggravated robbery, § 5-12-103;
- (vi) Rape, § 5-14-103;
- (vii) Battery in the first degree, § 5-13-201;
- (viii) First degree escape, § 5-54-110; and
- (ix) Second degree escape, § 5-54-111;

(2) At least fourteen (14) years old when he or she engages in conduct that constitutes a felony under § 5-73-119(a)(1)(A); or

(3) At least fourteen (14) years old when he or she engages in conduct that, if committed by an adult, constitutes a felony and who has, within the preceding two (2) years, three (3) times been adjudicated as a delinquent juvenile for acts that would have constituted felonies if they had been committed by an adult.

(c) ~~The criminal division of circuit court and the juvenile division of circuit court have concurrent jurisdiction, and a~~ A prosecuting attorney may charge a juvenile in either the juvenile or criminal division of circuit court when a case involves a juvenile:

(1) At least sixteen (16) years old when he or she engages in conduct that, if committed by an adult, would be any felony; or

(2) Fourteen (14) or fifteen (15) years old when he or she engages in conduct that, if committed by an adult would be:

- (A) Capital murder, § 5-10-101;
- (B) Murder in the first degree, § 5-10-102;
- (C) Kidnapping, § 5-11-102;
- (D) Aggravated robbery, § 5-12-103;
- (E) Rape, § 5-14-103;
- (F) Battery in the first degree, § 5-13-201; or
- (G) Terroristic act, § 5-13-310.

(d) If a prosecuting attorney can file charges in the criminal division of circuit court for an act allegedly committed by a juvenile, the state may file any other criminal charges that arise out of the same act or course of conduct in the same division of the circuit court case if, after a hearing before the juvenile division of circuit court, a transfer is so ordered.

(e) Upon the motion of the court or of any party, the judge of the division of circuit court in which a delinquency petition or criminal charges

1 have been filed shall conduct a transfer hearing to determine whether ~~to~~
2 ~~retain jurisdiction~~ or to transfer the case to another division of circuit
3 court ~~having jurisdiction~~.

4 (f) ~~The juvenile division or the criminal division of circuit court~~
5 shall conduct a transfer hearing within thirty (30) days if the juvenile is
6 detained and no longer than ninety (90) days from the date of the motion to
7 transfer ~~jurisdiction to the juvenile division or the criminal division of~~
8 ~~circuit court~~ the case.

9 (g) ~~In making the decision to retain jurisdiction or to transfer the~~
10 ~~case, the judge of the division of circuit~~ In the transfer hearing the court
11 shall ~~make written findings and~~ consider all of the following factors:

12 (1) The seriousness of the alleged offense and whether the
13 protection of society requires prosecution ~~as an extended juvenile~~
14 ~~jurisdiction offender~~ or in the criminal division of circuit court;

15 (2) Whether the alleged offense was committed in an aggressive,
16 violent, premeditated, or willful manner;

17 (3) Whether the offense was against a person or property, with
18 greater weight being given to offenses against persons, especially if
19 personal injury resulted;

20 (4) The culpability of the juvenile, including the level of
21 planning and participation in the alleged offense;

22 (5) The previous history of the juvenile, including whether the
23 juvenile had been adjudicated a juvenile offender and, if so, whether the
24 offenses were against persons or property, and any other previous history of
25 antisocial behavior or patterns of physical violence;

26 (6) The sophistication or maturity of the juvenile as determined
27 by consideration of the juvenile's home, environment, emotional attitude,
28 pattern of living, or desire to be treated as an adult;

29 (7) Whether there are facilities or programs available to the
30 judge of the juvenile division of circuit court which are likely to
31 rehabilitate the juvenile prior to the expiration of the ~~juvenile division of~~
32 ~~circuit court's jurisdiction~~ juvenile's twenty-first birthday;

33 (8) Whether the juvenile acted alone or was part of a group in
34 the commission of the alleged offense;

35 (9) Written reports and other materials relating to the
36 juvenile's mental, physical, educational, and social history; and

1 (10) Any other factors deemed relevant by the judge.

2 (h)(1) The court shall make written findings on all of the factors set
 3 forth in subsection (g) of this section.

4 (2) Upon a finding by clear and convincing evidence that a
 5 juvenile case should be ~~tried as an adult~~ transferred to another division of
 6 circuit court, the judge shall enter an order to that effect.

7 (i) Upon a finding by the criminal division of circuit court that a
 8 juvenile age fourteen (14) or fifteen (15) and charged with the crimes in
 9 subdivision (c)(2) of this section should be transferred to the juvenile
 10 division of circuit court, the judge shall enter an order to transfer as an
 11 extended juvenile jurisdiction case.

12 (j) If a juvenile age fourteen (14) or fifteen (15) is found guilty in
 13 the criminal division of circuit court for an offense other than an offense
 14 listed in subsection (b) or subdivision (c)(2) of this section, the judge
 15 shall ~~transfer the case to the juvenile division of circuit court for the~~
 16 ~~judge of the juvenile division of circuit court to~~ enter a juvenile
 17 delinquency disposition under § 9-27-330.

18 (k) If the case is transferred to another ~~court~~ division, any bail or
 19 appearance bond given for the appearance of the juvenile shall continue in
 20 effect in the ~~court~~ division to which the case is transferred.

21 (l) Any party may appeal from ~~an a transfer order granting or denying~~
 22 ~~the transfer of a case from one (1) division of circuit court to another~~
 23 ~~division of circuit court having jurisdiction over the matter.~~

24 (m) ~~The juvenile division of circuit court may conduct a transfer~~
 25 ~~hearing and an extended juvenile jurisdiction hearing~~ under § 9-27-503 at the
 26 same time.

27
 28 SECTION 11. Arkansas Code § 9-27-320 is amended to read as follows:

29 9-27-320. Fingerprinting or photographing.

30 (a)(1) When a juvenile is arrested for any offense which if committed
 31 by an adult would constitute a felony or a Class A misdemeanor wherein
 32 violence or the use of a weapon was involved, the juvenile shall be
 33 photographed and fingerprinted by the law enforcement agency.

34 (2) In the case of an allegation of delinquency, a juvenile
 35 shall not be photographed or fingerprinted under this subchapter by any law
 36 enforcement agency unless he or she has been taken into custody for the

1 commission of an offense which if committed by an adult would constitute a
2 felony or a Class A misdemeanor wherein violence or the use of a weapon was
3 involved.

4 (b)(1) Copies of a juvenile's fingerprints and photographs shall be
5 made available only to other law enforcement agencies, the Arkansas Crime
6 Information Center, prosecuting attorneys, and the juvenile division of
7 circuit court.

8 (2) Photographs and fingerprints of juveniles adjudicated
9 delinquent for offenses for which they could have been tried as adults shall
10 be made available to prosecuting attorneys and circuit courts for use at
11 sentencing in subsequent adult criminal proceedings against those same
12 individuals.

13 (3)(A) When a juvenile departs without authorization from a
14 youth services center or other facility operated by the Division of Youth
15 Services for the care of delinquent juveniles, if at the time of departure
16 the juvenile is committed or detained for an offense for which the juvenile
17 could have been tried as an adult, the Director of the Division of Youth
18 Services of the Department of Human Resources shall release to the general
19 public the name, age, and description of the juvenile and any other pertinent
20 information the Director of the Division of Youth Services deems necessary to
21 aid in the apprehension of the juvenile and to safeguard the public welfare.

22 (B) When a juvenile departs without authorization from the
23 State Hospital, if at the time of departure the juvenile is committed as a
24 result of an acquittal on the grounds of mental disease or defect for an
25 offense for which the juvenile could have been tried as an adult, the
26 Director of the Division of Mental Health Services of the Department of Human
27 Services shall release to the general public the name, age, and description
28 of the juvenile and any other pertinent information the director deems
29 necessary to aid in the apprehension of the juvenile and to safeguard the
30 public welfare.

31 (C) When a juvenile departs without authorization from a
32 local juvenile detention facility, if at the time of departure the juvenile
33 is committed or detained for an offense for which the juvenile could have
34 been tried as an adult, the director of the juvenile detention facility shall
35 release to the general public the name, age, and description of the juvenile
36 and any other pertinent information the director deems necessary to aid in

1 the apprehension of the juvenile and to safeguard the public welfare.

2 (c) Each law enforcement agency in the state shall keep a separate
3 file of photographs and fingerprints, it being the intention that the
4 photographs and fingerprints of juveniles not be kept in the same file with
5 those of adults.

6 (d) However, in any case where the juvenile is found not to have
7 committed the alleged delinquent act, the ~~juvenile~~ circuit court may order
8 any law enforcement agency to return all pictures and fingerprints to the
9 ~~juvenile~~ circuit court and shall order the law enforcement agency that took
10 the juvenile into custody to mark the arrest record with the notation "found
11 not to have committed the alleged offense".

12
13 SECTION 12. Arkansas Code § 9-27-321 is amended to read as follows:
14 9-27-321. Statements not admissible.

15 Statements made by a juvenile to the intake officer or probation
16 officer during the intake process prior to a hearing on the merits of the
17 petition filed against the juvenile shall not be used or be admissible
18 against the juvenile at any stage of any proceedings in ~~juvenile~~ circuit
19 court or in any other court.

20
21 SECTION 13. Arkansas Code § 9-27-322(a)(3), concerning notice that a
22 juvenile has been taken into custody, is amended to read as follows:

23 (3) Detain the juvenile pending a detention hearing before the
24 ~~juvenile~~ circuit court.

25
26 SECTION 14. Arkansas Code § 9-27-325 is amended to read as follows:
27 9-27-325. Hearings - Generally.

28 (a)(1)(A) All hearings shall be conducted by the judge without a jury,
29 except as provided by the Extended Juvenile Jurisdiction Act, § 9-27-501 et
30 seq.

31 (B) If a juvenile is designated an extended juvenile
32 jurisdiction offender, the juvenile shall have a right to a jury trial at the
33 adjudication.

34 (2) The juvenile shall be advised of the right to a jury trial
35 by the court following a determination that the juvenile will be tried as an
36 extended juvenile jurisdiction offender.

1 (3) The right to a jury trial may be waived by a juvenile only
2 after being advised of his or her rights and after consultation with the
3 juvenile's attorney.

4 (4) The waiver shall be in writing and signed by the juvenile
5 and the juvenile's attorney.

6 (b)(1) The defendant need not file a written responsive pleading in
7 order to be heard by the court.

8 (2) In dependency-neglect proceedings, retained counsel shall
9 file a notice of appearance immediately upon acceptance of representation,
10 with a copy to be served on the petitioner.

11 (c)(1) At the time set for hearing, the court may:

12 (A) Proceed to hear the case only if the juvenile is
13 present or excused for good cause by the court; or

14 (B) Continue the case upon determination that the presence
15 of an adult defendant is necessary.

16 (2) Upon determining that a necessary party is not present
17 before the court, the court may:

18 (A) Issue an order for contempt if the juvenile was served
19 with an order to appear; or

20 (B) Issue an order to appear, with a time and place set by
21 the court for hearing, if the juvenile was served with a notice of hearing.

22 (d)(1) The court shall be a court of record.

23 (2) A record of all proceedings shall be kept in the same manner
24 as other proceedings of ~~chancery~~ circuit court and in accordance with rules
25 promulgated by the Arkansas Supreme Court.

26 (e) Unless otherwise indicated, the Arkansas Rules of Evidence shall
27 apply.

28 (f) Except as otherwise provided in this subchapter ~~and until rules of~~
29 ~~procedure for juvenile court are developed and in effect~~, the Arkansas Rules
30 of Civil Procedure shall apply to all proceedings and the Arkansas Rules of
31 Criminal Procedure shall apply to delinquency proceedings.

32 (g) All parties shall have the right to compel attendance of witnesses
33 in accordance with the Arkansas Rules of Civil Procedure and the Arkansas
34 Rules of Criminal Procedure.

35 (h)(1) The petitioner in all proceedings shall bear the burden of
36 presenting the case at hearings.

1 (2) *The following burdens of proof shall apply:*

2 (A) *Proof beyond a reasonable doubt in delinquency*
3 *hearings;*

4 (B) *Proof by a preponderance of the evidence in*
5 *dependency-neglect, family in need of services, and probation revocation*
6 *hearings; and*

7 (C) *Proof by clear and convincing evidence for hearings to*
8 *terminate parental rights and transfer hearings and in hearings to determine*
9 *whether or not reunification services shall be provided.*

10 (i)(1) *All hearings involving allegations and reports of child*
11 *maltreatment and all hearings involving cases of children in foster care*
12 *shall be closed.*

13 (2) *All other hearings may be closed within the discretion of*
14 *the court, except that in delinquency cases the juvenile shall have the right*
15 *to an open hearing, and in adoption cases the hearings shall be closed as*
16 *provided in the Revised Uniform Adoption Act, § 9-9-201 et seq.*

17 (j) *Except as provided in § 9-27-502, in any juvenile delinquency*
18 *proceeding where the juvenile's fitness to proceed is put in issue by any*
19 *party or the court, the provisions of § 5-2-301 et seq. shall apply.*

20 (k) *In delinquency proceedings, juveniles are entitled to all defenses*
21 *available to criminal defendants in circuit court.*

22 (1)(1) *The Department of Human Services shall provide to foster parents*
23 *and preadoptive parents of a child in department custody notice of any review*
24 *or hearing to be held with respect to the child.*

25 (2) *Relative caregivers shall be provided notice by the original*
26 *petitioner in the juvenile matter.*

27 (3)(A) *The court shall allow foster parents, preadoptive*
28 *parents, and relative caregivers an opportunity to be heard in any review or*
29 *hearing held with respect to a child in their care.*

30 (B) *Foster parents, adoptive parents, and relative*
31 *caregivers shall not be made parties to the review or hearing solely on the*
32 *basis that the persons are entitled to notice and the opportunity to be*
33 *heard.*

34 (m)(1)(A) *A grandparent shall be entitled to notice and shall be*
35 *granted an opportunity to be heard in any dependency-neglect proceeding*
36 *involving a grandchild who is twelve (12) months of age or younger when:*

1 (i) The grandchild resides with this grandparent for
2 at least six (6) continuous months prior to his or her first birthday;

3 (ii) The grandparent was the primary caregiver for
4 and financial supporter of the grandchild during the time the grandchild
5 resided with the grandparent;

6 (iii) The continuous custody occurred within one (1)
7 year of the date the child custody proceeding was initiated; and

8 (iv) Notice to a grandparent under subdivision
9 (m)(1)(A) of this section shall be given by the Department of Human Services;
10 and

11 (B) A grandparent shall be entitled to notice and shall be
12 granted an opportunity to be heard in any dependency-neglect proceeding
13 involving a grandchild who is twelve (12) months of age or older when:

14 (i) The grandchild resides with this grandparent for
15 at least one (1) continuous year regardless of age;

16 (ii) The grandparent was the primary caregiver for
17 and financial supporter of the grandchild during the time the grandchild
18 resided with the grandparent; and

19 (iii) The continuous custody occurred within one (1)
20 year of the date the child custody proceeding was initiated.

21 (2) For purposes of this subsection, "grandparent" does not mean
22 a parent of a putative father of a child.

23
24 SECTION 15. Arkansas Code § 9-27-328 is amended to read as follows:
25 9-27-328. Removal and placement of juvenile.

26 (a) Before a ~~juvenile~~ juvenile circuit court may order any dependent-neglected
27 juvenile or family in need of services juvenile removed from the custody of
28 his or her parent, guardian, or custodian and placed with the Department of
29 Human Services or other licensed agency responsible for the care of juveniles
30 or with a relative or other individual, the court shall order family services
31 appropriate to prevent removal unless the health and safety of the juvenile
32 warrant immediate removal for the protection of the juvenile.

33 (b) When the court orders a juvenile removed from the custody of a
34 parent, guardian, or custodian and placed in the custody of the department or
35 other licensed agency responsible for the care of juveniles or with a
36 relative or other individual, excluding commitments to youth services centers

1 or juvenile detention facilities, the court shall make these specific
2 findings in the order:

3 (1) Whether the removal of the juvenile is necessary to protect
4 the health and safety of the juvenile, and the reasons therefor;

5 (2) Which family services were made available to the family
6 before the removal of the juvenile;

7 (3) What efforts were made to provide those family services
8 relevant to the needs of the family before the removal of the juvenile,
9 taking into consideration whether or not the juvenile could safely remain at
10 home while family services were provided;

11 (4) Why efforts made to provide the family services described
12 did not prevent the removal of the juvenile;

13 (5) Whether efforts made to prevent the removal of the juvenile
14 were reasonable, based upon the needs of the family and the juvenile; and

15 (6) Whether the removal is in the best interest of the juvenile.

16 (c) Where the state agency's first contact with the family has
17 occurred during an emergency in which the juvenile could not safely remain at
18 home, even with reasonable services being provided, the responsible state
19 agency shall be deemed to have made reasonable efforts to prevent or
20 eliminate the need for removal.

21 (d)(1)(A) At any hearing to determine whether a juvenile should be
22 removed from the parent, guardian, or custodian of the juvenile or continued
23 in out-of-home placement, the ~~juvenile~~ circuit court may release the juvenile
24 to the parent, guardian, or custodian or may order the juvenile placed in the
25 legal custody of the state agency for placement in a foster care program.

26 (B) The court shall in its orders determine whether:

27 (i) It is in the best interest of the juvenile to be
28 removed, specifically addressing the impact on the health and safety of the
29 child should the child remain at home;

30 (ii) The juvenile is in need of the services of the
31 state agency;

32 (iii) Out-of-home placement is necessary to protect
33 the juvenile;

34 (iv) The juvenile is unlikely to appear before the
35 ~~juvenile~~ court for subsequent proceedings;

36 (v) The juvenile makes a reasonable request not to

1 be released;

2 (vi) The parent, guardian, or custodian cannot be
3 located or is unable or refuses to take custody of the juvenile; or

4 (vii) Considerations for the health and safety of
5 the juvenile preclude the use of family services to prevent removal of the
6 juvenile.

7 (2) Prior to placement of a juvenile in a placement other than
8 the home of the parent, guardian, or custodian from which the juvenile was
9 removed, the juvenile court must make specific findings as to whether:

10 (A) Reasonable efforts were made to keep the family
11 together and avoid out-of-home placement; and

12 (B) Reasonable efforts to eliminate the need for removal
13 of the juvenile from the home were made by the state and whether the out-of-
14 home placement is in the best interest of the child.

15 (e) Where the court finds the department's preventive or reunification
16 efforts have not been reasonable, but further preventive or reunification
17 efforts could not permit the juvenile to remain safely at home, the court may
18 authorize or continue the removal of the juvenile but shall note the failure
19 by the department in the record of the case.

20 (f)(1) In all instances of removal of a juvenile from the home of his
21 parent, guardian, or custodian by a court, the court shall set forth in a
22 written order:

23 (A) The evidence supporting the decision to remove;

24 (B) The facts regarding the need for removal; and

25 (C) The findings required by this section.

26 (2) The written findings and order shall be filed by the court
27 or by a party or party's attorney as designated by the court within thirty
28 (30) days of the date of the hearing at which removal is ordered or prior to
29 the next hearing, whichever is sooner.

30 (g)(1) After the department has removed the juvenile or the court
31 grants custody of the juvenile to the department, the juvenile shall be
32 placed in a licensed or approved foster home, shelter, or facility or an
33 exempt child welfare agency as defined at § 9-28-402(12).

34 (2) The court shall not specify a particular provider for
35 placement of any foster child.

36

1 SECTION 16. Arkansas Code § 9-27-330 is amended to read as follows:
2 9-27-330. Disposition - Delinquency - Alternatives.

3 (a) If a juvenile is found to be delinquent, the court may enter an
4 order making any of the following dispositions based upon the best interest
5 of the juvenile:

6 (1)(A) Transfer legal custody of the juvenile to any licensed
7 agency responsible for the care of delinquent juveniles or to a relative or
8 other individual;

9 (B)(i) Commit the juvenile to a youth services center
10 using the risk assessment system for Arkansas juvenile offenders distributed
11 and administered by the Administrative Office of the Courts.

12 (ii) The risk assessment may be modified by the
13 Juvenile Committee of the Arkansas Judicial Council with the Division of
14 Youth Services of the Department of Human Services.

15 (iii) In an order of commitment, the court may
16 recommend that a juvenile be placed in a community-based program instead of a
17 youth services center and shall make specific findings in support of such a
18 placement in the order.

19 (iv) Upon receipt of an order of commitment with
20 recommendations for placement, the Division of Youth Services of the
21 Department of Human Services shall consider the recommendations of the
22 committing court in placing a youth in a youth services facility or a
23 community-based program.

24 (C) In all cases in which both commitment and transfer of
25 legal custody are ordered by the court in the same order, transfer of custody
26 will be entered only upon compliance with the provisions of §§ 9-27-310 - 9-
27 27-312, 9-27-316, 9-27-327, and 9-27-328;

28 (2) Order the juvenile or members of the juvenile's family to
29 submit to physical, psychiatric, or psychological evaluations;

30 (3) Grant permanent custody to an individual upon proof that the
31 parent or guardian from whom the juvenile has been removed has not complied
32 with the orders of the court and that no further services or periodic reviews
33 are required;

34 (4)(A) Place the juvenile on probation under those conditions
35 and limitations that the court may prescribe pursuant to § 9-27-339(a).

36 (B)(i) In addition, the court shall have the right, as a

1 term of probation, to require the juvenile to attend school or make
2 satisfactory progress toward a general educational development certificate.

3 (ii) The court shall have the right to revoke
4 probation if the juvenile fails to regularly attend school or if satisfactory
5 progress toward a general educational development certificate is not being
6 made;

7 (5) Order a probation fee, not to exceed twenty dollars (\$20.00)
8 per month, as provided in § 16-13-326(a);

9 (6) Assess a court cost of no more than thirty-five dollars
10 (\$35.00) to be paid by the juvenile, his parent, both parents, or his
11 guardian;

12 (7)(A) Order restitution to be paid by the juvenile, a parent,
13 both parents, the guardian, or his custodian.

14 (B) If the custodian is the State of Arkansas, both
15 liability and the amount which may be assessed shall be determined by the
16 Arkansas State Claims Commission;

17 (8) Order a fine of not more than five hundred dollars (\$500) to
18 be paid by the juvenile, a parent, both parents, or the guardian;

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

24 (10)(A) Order that the parent, both parents, or the guardian of
25 the juvenile attend a court-approved parental responsibility training
26 program, if available.

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

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

33 (11)(A)(i) Order that the juvenile remain in a juvenile
34 detention facility for an indeterminate period not to exceed ninety (90)
35 days.

36 (ii) The court may further order that the juvenile

1 be eligible for work release or to attend school or other educational or
2 vocational training.

3 (B) The juvenile detention facility shall afford
4 opportunities for education, recreation, and other rehabilitative services to
5 adjudicated delinquents;

6 (12) Place the juvenile on residential detention with electronic
7 monitoring, either in the juvenile's home or in another facility as ordered
8 by the court;

9 (13)(A) Order the parent, both parents, or the guardian of any
10 juvenile adjudicated delinquent and committed to a youth services center or
11 detained in a juvenile detention facility to be liable for the cost of the
12 commitment or detention.

13 (B)(i) The court shall take into account the financial
14 ability of the parent, both parents, or the guardian to pay for the
15 commitment, detention, or foster care.

16 (ii) The court shall take into account the past
17 efforts of the parent, both parents, or the guardian to correct the
18 delinquent juvenile's conduct.

19 (iii) The court shall take into account, if the
20 parent is a noncustodial parent, the opportunity the parent has had to
21 correct the delinquent juvenile's conduct.

22 (iv) The court shall take into account any other
23 factors the court deems relevant; or

24 (14)(A) Order the Department of Finance and Administration to
25 suspend the driving privileges of any juvenile adjudicated delinquent.

26 (B) The order shall be prepared and transmitted to the
27 department within twenty-four (24) hours after the juvenile has been found
28 delinquent and is sentenced to have his driving privileges suspended.

29 (C) The court may provide in the order for the issuance of
30 a restricted driving permit to allow driving to and from a place of
31 employment or driving to and from school or for other circumstances.

32 (b) The ~~juvenile~~ court shall specifically retain jurisdiction to amend
33 or modify any orders entered pursuant to subdivisions (a)(4)~~(12)~~(14) of this
34 section.

35 (c)(1) If a juvenile is adjudicated delinquent for possession of a
36 handgun, as provided in § 5-73-119, or criminal use of prohibited weapons, as

1 provided in § 5-73-104, or possession of a defaced firearm, as provided in §
2 5-73-107, the court shall commit the juvenile:

3 (A) To a juvenile detention facility, as provided in
4 subdivision (a)(11) of this section; or

5 (B) To a youth services center operated by the Department
6 of Human Services State Institutional System Board, as provided in
7 subdivision (a)(1) of this section; or

8 (C) Place the juvenile on residential detention, as
9 provided in subdivision (a)(12) of this section.

10 (2) The court may take into consideration any preadjudication
11 detention period served by the juvenile and sentence the juvenile to time
12 served.

13 (d)(1) When the court orders restitution pursuant to subdivision (a)
14 (7) of this section, the court shall consider the following:

15 (A) The amount of restitution may be decided:

16 (i) If the juvenile is to be responsible for the
17 restitution, by agreement between the juvenile and the victim; or

18 (ii) If the parent or parents are to be responsible
19 for the restitution, by agreement between the parent or parents and the
20 victim; or

21 (iii) If the juvenile and the parent or parents are
22 to be responsible for the restitution, by agreement between the juvenile, his
23 parent or parents, and the victim; or

24 (iv) At a hearing at which the state must prove the
25 restitution amount by a preponderance of the evidence;

26 (B) Restitution shall be made immediately, unless the
27 court determines that the parties should be given a specified time to pay or
28 should be allowed to pay in specified installments;

29 (C)(i) In determining if restitution should be paid and by
30 whom, as well as the method and amount of payment, the court shall take into
31 account:

32 (a) The financial resources of the juvenile,
33 his or her parent, both parents, or the guardian, and the burden such payment
34 will impose with regard to the other obligations of the paying party;

35 (b) The ability to pay restitution on an
36 installment basis or on other conditions to be fixed by the court;

1 (c) The rehabilitative effect of the payment
2 of restitution and the method of payment; and

3 (d) The past efforts of the parent, both
4 parents, or the guardian to correct the delinquent juvenile's conduct;

5 (ii)(a) The court shall take into account if the
6 parent is a noncustodial parent.

7 (b) The court may take into consideration the
8 opportunity the parent has had to correct the delinquent juvenile's conduct;
9 and

10 (iii) The court shall take into account any other
11 factors the court deems relevant.

12 (2) If the juvenile is placed on probation, any restitution
13 ordered under this section may be a condition of the probation.

14 (e) When an order of restitution is entered, it may be collected by
15 any means authorized for the enforcement of money judgments in civil actions,
16 and it shall constitute a lien on the real and personal property of the
17 persons and entities the order of restitution is directed upon in the same
18 manner and to the same extent as a money judgment in a civil action.

19 (f)(1) The judgment entered by the court may be in favor of the state,
20 the victim, or any other appropriate beneficiary.

21 (2) The judgment may be discharged by a settlement between the
22 parties ordered to pay restitution and the beneficiaries of the judgment.

23 (g) The court shall determine priority among multiple beneficiaries on
24 the basis of the seriousness of the harm each suffered, their other
25 resources, and other equitable factors.

26 (h) If more than one (1) juvenile is adjudicated delinquent of an
27 offense for which there is a judgment under this section, the juveniles are
28 jointly and severally liable for the judgment unless the court determines
29 otherwise.

30 (i)(1) A judgment under this section does not bar a remedy available
31 in a civil action under other law.

32 (2) A payment under this section must be credited against a
33 money judgment obtained by the beneficiary of the payment in a civil action.

34 (3) A determination under this section and the fact that payment
35 was or was not ordered or made are not admissible in evidence in a civil
36 action and do not affect the merits of the civil action.

1 (j) If a juvenile is adjudicated delinquent as an extended juvenile
2 jurisdiction offender, the court shall enter the following dispositions:

3 (1) Order any of the juvenile delinquency dispositions
4 authorized by this section; and

5 (2) Suspend the imposition of an adult sentence pending ~~juvenile~~
6 court review.

7
8 SECTION 17. Arkansas Code § 9-27-331(b)(1)(B), concerning commitment
9 of juveniles to the Division of Youth Services, is amended to read as
10 follows:

11 (B) The ~~juvenile~~ circuit court shall have sole release
12 authority when an extended juvenile jurisdiction offender is committed to the
13 division.

14
15 SECTION 18. Arkansas Code § 9-27-336 is amended to read as follows:
16 9-27-336. Limitations on detention.

17 (a) A juvenile who is alleged to be, or who has been adjudicated
18 either dependent-neglected or a member of a family in need of services shall
19 not be placed or detained in a secure detention facility, in a facility
20 utilized for the detention of alleged or adjudicated delinquent juveniles, or
21 in a facility utilized for the detention of adults held for, charged with, or
22 convicted of a crime, except:

23 (1) A juvenile may be held in a juvenile detention facility when
24 he or she has been away from home for more than twenty-four (24) hours and
25 when the parent, guardian, or other person contacted lives beyond a fifty-
26 mile driving distance or out of state.

27 (A) The juvenile may be held in custody in a juvenile
28 detention facility for purposes of identification, processing, or arranging
29 for release or transfer to an alternative facility. Such holding shall be
30 limited to the minimum time necessary to complete these actions and shall not
31 occur in any facility utilized for incarceration of adults.

32 (B) A juvenile held under this subdivision (a)(1) shall be
33 separated from detained juveniles charged or held for delinquency. A juvenile
34 may not be held under this subdivision (a)(1) for more than six (6) hours if
35 the parent, guardian, or other person contacted lives in the state, or
36 twenty-four (24) hours, excluding weekends and holidays, if the parent,

1 guardian, or other person contacted lives out of state.

2 (2) An adjudicated family in need of services juvenile may be
3 held in a juvenile detention facility when the ~~juvenile~~ court finds that the
4 juvenile violated a valid court order.

5 (A) For the purposes of this subdivision (a)(2), a valid
6 court order shall include any order of a ~~juvenile court judge to~~ regarding a
7 juvenile who has been brought before the court and made subject to a court
8 order. The juvenile who is the subject of the order shall receive full due
9 process rights.

10 (B) A juvenile held under this subdivision (a)(2) shall be
11 separated from detained juveniles charged or held for delinquency. Such
12 holding shall not occur in any facility utilized for incarceration of adults.

13 (b) Except pursuant to subsection (e) of this section, a juvenile
14 shall not be placed or confined in a jail or lock-up used for the detention
15 of adults except under the following circumstances:

16 (1) A juvenile who has been formally transferred from the
17 juvenile division of circuit court to the criminal division of circuit court
18 and against whom felony charges have been filed or a juvenile who the
19 prosecuting attorney has the discretion to charge in circuit court and to
20 prosecute as an adult and against whom the circuit court's jurisdiction has
21 been invoked by the filing of felony charges may be held in an adult jail or
22 lock-up;

23 (2) A juvenile alleged to have committed a delinquent act may be
24 held in an adult jail or lock-up for up to six (6) hours for purposes of
25 identification, processing, or arranging for release or transfer to an
26 alternative facility, provided he is separated by sight and sound from adults
27 who are pretrial detainees or convicted persons. A holding for those purposes
28 shall be limited to the minimum time necessary and shall not include travel
29 time for transporting the juvenile to the alternative facility; or

30 (3)(A) A juvenile alleged to have committed a delinquent act who
31 is awaiting an initial appearance before a judge may be held in an adult jail
32 or lock-up for up to twenty-four (24) hours, excluding weekends and holidays,
33 provided the following conditions exist:

34 (i) The alleged act would be a misdemeanor or a
35 felony if committed by an adult or is a violation of § 5-73-119; and

36 (ii) The geographical area having jurisdiction over

1 the juvenile is outside a metropolitan statistical area pursuant to the
2 current designation of the United States Bureau of the Census; and

3 (iii) No acceptable alternative placement for the
4 juvenile exists; and

5 (iv) The juvenile is separated by sight and sound
6 from adults who are pretrial detainees or convicted persons.

7 (B)(i) A juvenile awaiting an initial appearance and being
8 held in an adult jail or lock-up pursuant to the twenty-four-hour exception,
9 as provided in subdivision (b)(3)(A) of this section, may be held for an
10 additional period, not to exceed twenty-four (24) hours, provided that the
11 following conditions exist:

12 (a) The conditions of distance to be traveled
13 or the lack of highway, road, or other ground transportation do not allow for
14 court appearances within twenty-four (24) hours; and

15 (b) All the conditions in subdivision
16 (b)(3)(A) of this section exist;

17 (ii) Criteria will be adopted by the Governor or his
18 designee to establish what distance, highway or road conditions, or ground
19 transportation limitations will provide a basis for holding a juvenile in an
20 adult jail or lock-up under this exception.

21 (c) Except as provided in subsection (e) of this section, nothing in
22 this subchapter is intended to prohibit the use of juvenile detention
23 facilities which are attached to or adjacent to adult jails or lock-ups,
24 provided the facilities are designed and used in accordance with federal and
25 state guidelines and restrictions.

26 (d) A detention facility shall not release a serious offender for a
27 less serious offender, except by order of the judge who committed the more
28 serious offender.

29 ~~(e) Provided, however, that upon petition by the quorum court of any~~
30 ~~county, the Governor may waive the requirements of subsections (b) and (c) of~~
31 ~~this section and any other provision of state law, state jailing standards,~~
32 ~~and state regulations limiting the detention of juveniles in adult~~
33 ~~facilities, subject to the following restrictions:~~

34 ~~(1) The authority to grant such a waiver will expire on March~~
35 ~~31, 1997; and~~

36 ~~(2) Waivers may be granted only for periods of up to six (6)~~

1 ~~months, but may be renewed for successive six-month periods, provided all~~
2 ~~such waivers shall expire on March 31, 1997; and~~

3 ~~(3) Such waivers shall be available only if a county:~~

4 ~~(A) Is making a good faith effort to provide a juvenile~~
5 ~~detention facility that otherwise complies with state law and regulations for~~
6 ~~detaining juveniles in a juvenile detention facility and has entered into a~~
7 ~~written agreement with another county or counties for that specific purpose;~~
8 ~~or~~

9 ~~(B) Has a juvenile detention facility located in that~~
10 ~~county, but certifies that no further bed capacity is available or will be~~
11 ~~available within a reasonable period of time, and certifies that the county~~
12 ~~will increase the bed capacity of its facility by March 31, 1997; and~~

13 ~~(4) Such waivers shall not permit detaining juveniles in the~~
14 ~~same cell or within physical reach of adults who are pretrial detainees or~~
15 ~~convicted persons.~~

16
17 SECTION 19. Arkansas Code § 9-27-341 is amended to read as follows:

18 9-27-341. Termination of parental rights.

19 (a)(1)(A) This section shall be a remedy available only to the
20 Department of Human Services or a court-appointed attorney ad litem.

21 (B) It shall not be available for private litigants or
22 other agencies.

23 (2) It shall be used only in such cases when the department is
24 attempting to clear a juvenile for permanent placement.

25 (3) The intent of this section is to provide permanency in a
26 juvenile's life in all instances where the return of a juvenile to the family
27 home is contrary to the juvenile's health, safety, or welfare and it appears
28 from the evidence that a return to the family home cannot be accomplished in
29 a reasonable period of time as viewed from the juvenile's perspective.

30 (b)(1) The court may consider a petition to terminate parental rights
31 if there is an appropriate permanency placement plan for the juvenile.

32 (2) The petitioner shall provide the parent, parents, or
33 putative parent or parents actual or constructive notice of a petition to
34 terminate parental rights.

35 (3) An order forever terminating parental rights shall be based
36 upon a finding by clear and convincing evidence:

1 (A) That it is in the best interest of the juvenile,
2 including consideration of the following factors:

3 (i) The likelihood that the juvenile will be adopted
4 if the termination petition is granted; and

5 (ii) The potential harm, specifically addressing the
6 effect on the health and safety of the child, caused by continuing contact
7 with the parent, parents, or putative parent or parents;

8 (B) Of one (1) or more of the following grounds:

9 (i)(a) That a juvenile has been adjudicated by the
10 court to be dependent-neglected and has continued out of the home for twelve
11 (12) months and, despite a meaningful effort by the department to
12 rehabilitate the home and correct the conditions which caused removal, those
13 conditions have not been remedied by the parent.

14 (b) It is not necessary that the twelve-month
15 period referenced in subdivision (b)(3)(B)(i) of this section immediately
16 precede the filing of the petition for termination of parental rights or that
17 it be for twelve (12) consecutive months;

18 (ii)(a) The juvenile has lived outside the home of
19 the parent for a period of twelve (12) months, and the parent has willfully
20 failed to provide significant material support in accordance with the
21 parent's means or to maintain meaningful contact with the juvenile.

22 (b) To find willful failure to maintain
23 meaningful contact, it must be shown that the parent was not prevented from
24 visiting or having contact with the juvenile by the juvenile's custodian or
25 any other person, taking into consideration the distance of the juvenile's
26 placement from the parent's home.

27 (c) Material support consists of either
28 financial contributions or food, shelter, clothing, or other necessities
29 where such contribution has been requested by the juvenile's custodian or
30 ordered by a court of competent jurisdiction.

31 (d) It is not necessary that the twelve-month
32 period referenced in subdivision (b)(3)(B)(ii) of this section immediately
33 precede the filing of the petition for termination of parental rights, or
34 that it be for twelve (12) consecutive months;

35 (iii) The presumptive legal father is not the
36 biological father of the juvenile and the welfare of the juvenile can best be

1 served by terminating the parental rights of the presumptive legal father;

2 (iv) A parent has abandoned the juvenile;

3 (v) A parent has executed consent to termination of
4 parental rights or adoption of the juvenile, subject to the court's approval;

5 (vi)(a) The ~~juvenile~~ court has found the juvenile
6 victim dependent-neglected as a result of neglect or abuse that could
7 endanger the life of the child, sexual abuse, or sexual exploitation, and
8 which was perpetrated by the juvenile's parent or parents.

9 (b) Such findings by the juvenile court shall
10 constitute grounds for immediate termination of the parental rights of one
11 (1) or both of the parents;

12 (vii)(a) That, subsequent to the filing of the
13 original petition for dependency-neglect, other factors or issues arose which
14 demonstrate that return of the juvenile to the family home is contrary to the
15 juvenile's health, safety, or welfare and that, despite the offer of
16 appropriate family services, the parent has manifested the incapacity or
17 indifference to remedy the subsequent issues or factors or rehabilitate the
18 parent's circumstances which prevent return of the juvenile to the family
19 home.

20 (b) Provided, however, that the department
21 shall make reasonable accommodations in accordance with the Americans with
22 Disabilities Act to parents with disabilities in order to allow them
23 meaningful access to reunification and family preservation services.

24 (c) For purposes of subdivision (b)(3)(B)(vii)
25 of this section, the inability or incapacity to remedy or rehabilitate
26 includes, but is not limited to, mental illness, emotional illness, or mental
27 deficiencies;

28 (viii)(a) The parent is sentenced in a criminal
29 proceeding for a period of time which would constitute a substantial period
30 of the juvenile's life and the conditions in subdivision (b)(3)(B)(i) or
31 (b)(3)(B)(ii) of this section have also been established.

32 (b) For purposes of subdivision
33 (b)(3)(B)(viii) of this section, "substantial period" means a sentence, and
34 not time actually served, of no less than fifteen (15) years, none of which
35 has been suspended;

36 (ix)(a) The parent is found by a court of competent

1 jurisdiction, including the juvenile division of circuit court, to:

2 (1) Have committed murder or voluntary
3 manslaughter of any child or to have aided or abetted, attempted, conspired,
4 or solicited to commit the murder or voluntary manslaughter;

5 (2) Have committed a felony battery or
6 assault that results in serious bodily injury to any child;

7 (3) Have subjected the child to
8 aggravated circumstances;

9 (4) Have had his parental rights
10 involuntarily terminated as to a sibling of the child; or

11 (5) Have abandoned an infant, as defined
12 at § 9-27-303(2).

13 (b) Nothing in this chapter shall be construed to
14 require reunification of a surviving child with a parent who has been found
15 guilty of any of the offenses listed in subdivision (b)(3)(B)(ix)(a) of this
16 section.

17 (c)(1) An order terminating the relationship
18 between parent and juvenile divests the parent and the juvenile of all legal
19 rights, powers, and obligations with respect to each other, including the
20 right to withhold consent to adoption, except the right of the juvenile to
21 inherit from the parent which is terminated only by a final order of
22 adoption.

23 (2)(A)(i) Termination of the relationship between a juvenile and
24 one (1) parent shall not affect the relationship between the juvenile and the
25 other parent if those rights are legally established.

26 (ii) If no legal rights have been established, a
27 putative parent must prove that significant contacts existed with the
28 juvenile in order for the putative parent's rights to attach.

29 (B)(i) When the petitioner has actual knowledge that an
30 individual is claiming to be or is named as the putative parent of the
31 juvenile and the paternity of the juvenile has not been judicially
32 determined, the individual is entitled to notice of the petition to terminate
33 parental rights.

34 (ii) The notice shall identify the rights sought to
35 be terminated and those which may be terminated.

36 (iii) The notice shall further specify that the

1 putative parent must prove that significant contacts existed with the
2 juvenile for the putative parent's rights to attach.

3 (3) An order terminating parental rights under this section may
4 authorize the department to consent to adoption of the juvenile.

5 (4) An order terminating parental rights under this section does
6 not preclude adoptive parents from allowing contact between an adopted child
7 and the birth sibling or other birth family members.

8 (d) The court shall conduct and complete a termination of parental
9 rights hearing within ninety (90) days from the date the petition for
10 termination of parental rights is filed unless continued for good cause as
11 articulated in the written order of the court.

12 (e) A written order shall be filed by the court or by a party or
13 party's counsel as designated by the court within thirty (30) days of the
14 date of the termination hearing or before the next hearing, whichever is
15 sooner.

16 (f) After an order of termination of parental rights is filed, the
17 court shall review the case at least every three (3) months when the goal is
18 adoption and, in other cases, every six (6) months until permanency is
19 achieved for that juvenile.

20 (g)(1)(A) A parent may withdraw consent to termination of parental
21 rights within ten (10) calendar days after it was signed by filing an
22 affidavit with the clerk of the ~~juvenile~~ circuit court in the county
23 designated by the consent as the county in which the termination of parental
24 rights will be filed.

25 (B) If the ten-day period ends on a weekend or legal
26 holiday, the person may file the affidavit the next working day.

27 (C) No fee shall be charged for the filing of the
28 affidavit.

29 (2) The consent to terminate parental rights shall state that
30 the person has the right of withdrawal of consent and shall provide the
31 address of the ~~juvenile~~ circuit court clerk of the county in which the
32 termination of parental rights will be filed.

33
34 SECTION 20. Arkansas Code § 9-27-342(e), concerning proceedings
35 regarding illegitimate juveniles, is amended to read as follows:

36 (e) A father, providing that paternity has been established in a court

1 of competent jurisdiction, may petition the ~~juvenile~~ court in the county
2 where the juvenile resides for custody of the juvenile. The court may award
3 custody to a father who has had paternity established if the court finds by a
4 preponderance of the evidence that:

5 (1) He is a fit parent to raise the juvenile;

6 (2) He has assumed his responsibilities toward the juvenile by
7 providing care, supervision, protection, and financial support for the
8 juvenile; and

9 (3) It is in the best interest of the juvenile to award custody
10 to the father.

11

12 SECTION 21. Arkansas Code § 9-27-343 is amended to read as follows:

13 9-27-343. Appeals.

14 (a) All appeals from juvenile ~~court~~ cases shall be made to the
15 Arkansas Supreme Court or to the Arkansas Court of Appeals in the ~~same~~ time
16 and manner provided for appeals ~~from chancery court~~ in the Arkansas Rules of
17 Appellate Procedure.

18 (b) In delinquency cases, the petitioner may appeal only under those
19 circumstances that would permit the state to appeal in criminal proceedings.

20

21 SECTION 22. Arkansas Code § 9-27-344 is amended to read as follows:

22 9-27-344. Monthly report.

23 The ~~juvenile~~ court shall submit monthly to the Director of the
24 Administrative Office of the Courts a report in writing upon forms to be
25 furnished by the Director of the Administrative Office of the Courts showing
26 the number and disposition of juveniles brought before the juvenile court
27 together with such other information regarding those cases as may be
28 requested by the Director of the Administrative Office of the Courts.

29

30 SECTION 23. Arkansas Code § 9-27-346(c), concerning support orders for
31 juveniles, is amended to read as follows:

32 (c) The court shall also order such persons required by law to support
33 a juvenile to disclose their places of employment and the amounts earned by
34 them. Anyone who refuses to disclose such information may be cited for
35 contempt of the ~~juvenile~~ court.

36

1 SECTION 24. Arkansas Code § 9-27-347 is amended to read as follows:
2 9-27-347. Probation reports.

3 (a) The probation officer shall make and keep a complete history of
4 each case prior to disposition and during the course of any probation imposed
5 by the court.

6 (b)(1) It is the intention of this section to require an intelligent
7 and thorough report of each juvenile prior to probation and during the course
8 thereof as to heredity, environment, condition, treatment, development, and
9 results.

10 (2) The report shall contain among other information the age,
11 sex, nativity, residence, education, mentality, habits, whether married or
12 single, and employment and income and shall be continued so as to show the
13 condition of the person during the term of his probation and the results of
14 probation in the case.

15 (3) The report shall never be disclosed except as required by
16 law or directed by the ~~juvenile~~ court.

17 (c) The probation officer shall furnish to each person released on
18 probation a written statement of the terms and conditions of probation and
19 shall report to the ~~juvenile~~ court any violation or breach of the terms and
20 conditions so imposed.

21
22 SECTION 25. Arkansas Code § 9-27-348 is amended to read as follows:
23 9-27-348. Publication of proceedings.

24 No information whereby the name or identity of a juvenile who is the
25 subject of proceedings under this subchapter may be ascertained shall be
26 published by the news media without written order of the ~~juvenile~~ court.

27
28 SECTION 26. Arkansas Code § 9-27-350 is amended to read as follows:
29 9-27-350. Compacts to share costs.

30 Nothing in this subchapter shall prohibit two (2) or more counties,
31 cities, or school districts of this state from agreeing by compact to share
32 the costs of ~~juvenile~~ court personnel or juvenile facilities to serve both or
33 all of the counties so agreeing.

34
35 SECTION 27. Arkansas Code § 9-27-352(b)(3), concerning confidentiality
36 of juvenile records, is amended to read as follows:

1 (3) Pursuant to a written order by the ~~juvenile~~ judge.
2

3 SECTION 28. Arkansas Code § 9-27-401 is amended to read as follows:

4 9-27-401. Creation - Representation for children and parents.

5 (a) There is hereby created a Division of Dependency-Neglect
6 Representation within the Administrative Office of the Courts which will be
7 staffed by a court-appointed special advocate coordinator and an attorney
8 coordinator.

9 (b)(1) The Director of the Administrative Office of the Courts is
10 authorized to employ or enter into professional service contracts with
11 private individuals or businesses or public agencies to represent all
12 children in dependency-neglect proceedings.

13 (2)(A) Prior to employing or entering into a contract or
14 contracts, the Administrative Office of the Courts shall ~~obtain approval from~~
15 ~~the juvenile division judge or judges~~ consult with the judge or judges of the
16 circuit court designated to hear dependency-neglect cases in their district
17 plan under Arkansas Supreme Court Administrative Order Number 14, originally
18 issued April 6, 2001, in each judicial district, in accordance with the
19 provisions of §§ 19-4-1701 - 19-4-1713.

20 (B) Those obtaining employment or contracts through the
21 Administrative Office of the Courts as described in subdivision (b)(3) of
22 this section will be designated as the provider for representation of
23 children in dependency-neglect cases in each judicial district.

24 (3)(A) The Administrative Office of the Courts shall advertise
25 employment and contract opportunities.

26 (B) The distribution of funds among the judicial districts
27 shall be based on a formula developed by the Administrative Office of the
28 Courts and approved by the Juvenile ~~Judges~~ Division Judges' Committee of the
29 Arkansas Judicial Council.

30 (4) The Arkansas Supreme Court shall adopt standards of practice
31 and qualifications for service for all attorneys who seek employment or
32 contracts to provide legal representation to children in dependency-neglect
33 cases.

34 (5)(A)(i) It is the intent of the General Assembly, in the
35 transition to a state-funded system of dependency-neglect representation, to
36 provide an appropriate and adequate level of representation to all children

1 in dependency-neglect proceedings, as required under federal and state law
2 pursuant to § 9-27-316.

3 (ii)(a) It is recognized by the General Assembly
4 that in many areas of the state resources have not been available to support
5 the requirement of representation for children at the necessary level.

6 (b) It is also recognized, however, that in
7 other areas, a system has been developed which is appropriately and
8 successfully serving children and the courts.

9 (iii) With the transition to state funding, it is
10 not the intent of the General Assembly to adversely affect these systems that
11 are working well or to put into place a system which is too inflexible to
12 respond to local needs or restrictions.

13 (B) In its administration of the system, therefore, the
14 Administrative Office of the Courts is charged with the authority and
15 responsibility to establish and maintain a system which:

16 (i) Equitably serves all areas of the state;
17 (ii) Provides quality representation;
18 (iii) Makes prudent use of state resources; and
19 (iv) Works with those systems now in place to
20 provide an appropriate level of representation of children and courts in
21 dependency-neglect cases.

22 (c) The director is authorized to:

23 (1) Establish a statewide court-appointed special advocate
24 program;

25 (2) Provide grants or contracts to local court-appointed special
26 advocate programs; and

27 (3) Work with judicial districts to establish local programs
28 whereby the ~~juvenile divisions of chancery court~~ circuit courts may appoint
29 trained volunteers to provide valuable information to the courts concerning
30 the best interests of children in dependency-neglect proceedings.

31 (d)(1) The director is authorized to establish a program to represent
32 indigent parents or guardians in dependency-neglect cases.

33 (2) ~~A juvenile court judge~~ The court shall appoint counsel in
34 compliance with federal law and § 9-27-316(h) in all proceedings to remove
35 custody or to terminate parental rights.

36 (3) The Arkansas Supreme Court, with advice of the ~~juvenile~~

1 ~~court~~ judges who hear dependency-neglect cases, shall adopt standards of
 2 practice and qualifications for service for attorneys who seek to be
 3 appointed to provide legal representation for indigent parents or guardians
 4 in dependency-neglect cases.

5 (4) When attorneys are appointed under subdivision (d)(2) of
 6 this section, the fees for services and reimbursable expenses shall be paid
 7 from funds appropriated for that purpose to the Administrative Office of the
 8 Courts.

9 (5) When ~~a juvenile court judge~~ the court orders the payment of
 10 funds for the fees and expenses authorized by this subsection, the ~~judge~~
 11 attorney shall transmit a copy of the order to the Administrative Office of
 12 the Courts, which is authorized to pay the funds.

13 (6) The court may also require the parties to pay all or a
 14 portion of the expenses, depending on the ability of the parties to pay.

15 (7) The Administrative Office of the Courts shall establish
 16 guidelines to provide a maximum amount of expenses and fees per hour and per
 17 case that will be paid under this section.

18 (8) In order to ensure that each judicial district will have an
 19 appropriate amount of funds to utilize indigent parent or guardian
 20 representation in dependency-neglect cases, the funds appropriated shall be
 21 apportioned based upon a formula developed by the Administrative Office of
 22 the Courts and approved by the Juvenile ~~Judges~~ Judges' Committee of
 23 the Arkansas Judicial Council.

24
 25 SECTION 29. Arkansas Code § 9-27-505(g)(1), concerning extended
 26 juvenile jurisdiction adjudication, is amended to read as follows:

27 (g)(1) If a juvenile is adjudicated delinquent as an extended juvenile
 28 jurisdiction offender, the ~~juvenile~~ court shall enter a disposition subject
 29 to § 9-27-506.

30
 31 SECTION 30. Arkansas Code § 5-27-506 is amended to read as follows:
 32 9-27-506. Extended juvenile jurisdiction disposition hearing.

33 If a juvenile is found delinquent as an extended juvenile jurisdiction
 34 offender, the court shall enter the following dispositions:

35 (1) Order any of the juvenile dispositions authorized by § 9-27-
 36 330; and

1 (2) Suspend the imposition of an adult sentence pending ~~juvenile~~
2 court review.

3
4 SECTION 31. Arkansas Code § 9-27-507 is amended to read as follows:

5 9-27-507. Extended juvenile jurisdiction court review hearing.

6 (a) The state may petition the ~~juvenile~~ court at any time to impose an
7 adult sentence if the juvenile:

8 (1) Has violated a juvenile disposition order;

9 (2) Has been adjudicated delinquent or found guilty of
10 committing a new offense; or

11 (3) Is not amenable to rehabilitation in the juvenile system.

12 (b) If the court finds by a preponderance of the evidence that the
13 juvenile has violated a juvenile disposition order, has been found delinquent
14 or guilty of committing a new offense, or is not amenable to rehabilitation
15 in the juvenile system, the court may:

16 (1) Amend or add any juvenile disposition authorized by § 9-27-
17 330; or

18 (2)(A)(i) Exercise its discretion to impose the full range of
19 adult sentencing available in the criminal division of circuit court,
20 including probation, suspended imposition of sentence, and imprisonment.

21 (ii) However, a sentence of imprisonment shall not
22 exceed forty (40) years, except for juveniles adjudicated for capital murder,
23 § 5-10-101, and murder in the first degree, § 5-10-102, who may be sentenced
24 for any term up to and including life.

25 (B) Statutory provisions prohibiting or limiting probation
26 or suspended imposition of sentence or parole for offenses when committed by
27 an adult shall not apply to juveniles sentenced as extended juvenile
28 jurisdiction offenders.

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

31 (D)(i) A ~~judge of the criminal division of circuit~~ court
32 may not order an absolute release of an extended juvenile jurisdiction
33 offender who has been adjudicated delinquent for capital murder, § 5-10-101,
34 or murder in the first degree, § 5-10-102.

35 (ii) If release is ordered, the ~~judge of the~~
36 ~~criminal division of circuit~~ court shall impose a period of probation for not

1 less than three (3) years.

2 (c)(1) The juvenile may petition the court to review and modify the
3 disposition at any time.

4 (2) If the juvenile's initial petition is denied, the juvenile
5 must wait one (1) year from the date of the denial to file a new petition for
6 modification.

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

10 (e)(1) If no hearing has been conducted six (6) months prior to the
11 juvenile's eighteenth birthday, the court shall conduct a hearing to
12 determine whether to release the juvenile, amend or add any juvenile
13 disposition, or impose an adult sentence.

14 (2) In making its determination the court shall consider the
15 following:

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

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

21 (C) The recommendations of the professionals who have
22 worked with the juvenile;

23 (D) The protection of public safety;

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

26 (F) Victim impact evidence admitted pursuant to § 16-97-
27 103.

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

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

33 (i) Release the juvenile;

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

35 (iii)(a) Exercise its discretion to impose the full
36 range of sentencing available in circuit court, including probation,

1 suspended imposition of sentence, and imprisonment.

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

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

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

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

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

17
18 SECTION 32. Arkansas Code § 12-12-516(a)(1), concerning protective
19 custody of children, is amended to read as follows:

20 (a)(1) A police officer, a law enforcement official, a ~~juvenile court~~
21 circuit judge during juvenile proceedings, or a designated employee of the
22 Department of Human Services may take a child into protective custody or any
23 person in charge of a hospital or similar institution or any physician
24 treating a child may keep that child in his or her custody without the
25 consent of the parent or the guardian, whether or not additional medical
26 treatment is required, if the child is dependent-neglected, as defined in §
27 9-27-303(15), or if the circumstances or conditions of the child are such
28 that continuing in his or her place of residence or in the care and custody
29 of the parent, guardian, custodian, or caretaker presents an immediate danger
30 of severe maltreatment.

31
32 SECTION 33. Arkansas Code § 16-13-327 is amended to read as follows:
33 16-13-327. Probation officers.

34 (a) Each juvenile division of ~~chancery~~ circuit court shall be provided
35 with not less than one (1) probation officer to manage the probation services
36 and needs of the court.

1 (b) Each probation officer shall be an employee ~~of the juvenile~~
 2 ~~division of chancery court~~ of the judge or judges of the circuit court
 3 designated to hear juvenile cases in their district plan under Arkansas
 4 Supreme Court Administrative Order Number 14, originally issued April 6,
 5 2001, and shall serve at the pleasure of the judge ~~of the juvenile division~~
 6 or judges.

7 (c)(1) The probation officers shall be certified as juvenile probation
 8 officers according to the laws of this state and must complete initial
 9 certification requirements within one (1) year of the officers' employment
 10 and must maintain the certification during the terms of their employment.

11 (2) The Juvenile Intake and Probation Officers' Certification
 12 Committee, composed of juvenile officers and ~~juvenile~~ judges of the circuit
 13 court designated to hear juvenile cases in their district plan under Arkansas
 14 Supreme Court Administrative Order Number 14, originally issued April 6,
 15 2001, and staffed by an employee of the Administrative Office of the Courts,
 16 shall establish certification standards for intake and probation officers.

17 (3) The Administrative Office of the Courts shall collect and
 18 maintain records for the juvenile officers' certification documentation.

19 (d)(1) The salary of the probation officer shall be paid by the county
 20 or counties in which the probation officer works; except that, beginning
 21 August 1, 1990, the state shall pay a portion of the salary of a full-time
 22 probation officer who is certified according to the laws of this state and
 23 whose salary has been paid by the county or counties for a period of one (1)
 24 year.

25 (2) The portion to be paid by the state shall be the lesser of
 26 either fifteen thousand dollars (\$15,000) a year or one-half (1/2) the
 27 probation officer's average salary as calculated over the last twelve (12)
 28 months.

29
 30 SECTION 34. Arkansas Code § 16-13-328 is amended to read as follows:
 31 16-13-328. Intake officers.

32 (a) Each juvenile division of ~~chancery~~ circuit court shall be provided
 33 with not less than one (1) intake officer to manage the intake needs of the
 34 court.

35 (b) Each intake officer shall be employed by ~~the juvenile division of~~
 36 ~~chancery court~~ the judge or judges of the circuit court designated to hear

1 juvenile cases in their district plan under Arkansas Supreme Court
2 Administrative Order Number 14, originally issued April 6, 2001, and shall
3 serve at the pleasure of the judge of the juvenile division of chancery court
4 or judges.

5 (c)(1) The intake officers shall be certified as juvenile intake
6 officers according to laws of this state and must complete initial
7 certification requirements within one (1) year of the officers' employment
8 and must maintain the certification during the terms of employment.

9 (2) The Juvenile Intake and Probation Officers' Certification
10 Committee, composed of juvenile officers and ~~juvenile~~ judges of the circuit
11 court designated to hear juvenile cases in their district plan under Arkansas
12 Supreme Court Administrative Order Number 14, originally issued April 6,
13 2001, and staffed by an employee of the Administrative Office of the Courts,
14 shall establish certification standards for intake and probation officers.

15 (3) The Administrative Office of the Courts shall collect and
16 maintain records for the juvenile officers' certification documentation.

17 (d)(1) The salary of the intake officer shall be paid by the county or
18 counties in which the intake officer works; except that, beginning August 1,
19 1990, the state shall pay a portion of the salary of a full-time intake
20 officer who is certified according to the laws of this state and whose salary
21 has been paid by the county or counties for a period of one (1) year.

22 (2) The portion to be paid by the state shall be the lesser of
23 either fifteen thousand dollars (\$15,000) a year or one-half (1/2) the intake
24 officer's average salary as calculated over the last twelve (12) months.

25 (e)(1) Each ~~circuit-chancery~~ judge whose primary responsibility is
26 conducting hearings for the involuntary admission or commitment of persons to
27 the Arkansas State Hospital or any other public or private hospital with a
28 fully trained psychiatrist on the active or consultant staff shall be
29 provided with not less than one (1) intake officer to manage the intake needs
30 of the court.

31 (2) The salaries of the intake officers shall be paid by the
32 county or counties in which the intake officers work, with the state paying a
33 portion, the lesser of either fifteen thousand dollars (\$15,000) per year or
34 one-half (1/2) of each full-time intake officer's annual salary.

35
36 SECTION 35. Arkansas Code § 16-13-329 is amended to read as follows:

1 *basis for expulsion or dismissal of a student.*

2 *(B) The legislative intent is that a student having*
3 *excessive absences because of illness, accident, or other unavoidable reasons*
4 *should be given assistance in obtaining credit for the courses.*

5 *(2) The State Board of Workforce Education and Career*
6 *Opportunities shall adopt a student attendance policy for sixteen-year-olds*
7 *and seventeen-year-olds enrolled in an adult education program. The policy*
8 *shall require a minimum attendance of ten (10) hours per week to remain in*
9 *the program.*

10 *(3) A copy of the school district's student attendance policy or*
11 *the state board's student attendance policy for sixteen-year-olds and*
12 *seventeen-year-olds enrolled in adult education shall be provided to the*
13 *students' parents, guardians, or persons in loco parentis at the beginning of*
14 *the school year or upon enrollment, whichever event first occurs.*

15 *(4) The student's parents, guardians, or persons in loco*
16 *parentis and the community truancy board shall be notified when the student*
17 *has accumulated excessive unexcused absences equal to one-half (1/2) the*
18 *total number of absences permitted per semester under the school district's*
19 *or the state board's student attendance policy. Notice shall be by telephonic*
20 *contact with the student's parents, guardians, or persons in loco parentis by*
21 *the end of the school day in which the absence occurred or by regular mail*
22 *with a return address on the envelope sent no later than the following school*
23 *day. Notice to the community truancy board shall be by letter to the chairman*
24 *of the community truancy board.*

25 *(A) The community truancy board shall schedule a*
26 *conference with the parents, guardians, or persons in loco parentis to*
27 *establish a plan to take steps to eliminate or reduce the student's unexcused*
28 *absences.*

29 *(B) If the student's parents, guardians, or persons in*
30 *loco parentis do not attend the scheduled conference, the conference may be*
31 *conducted with the student and a school official. However, the parent,*
32 *guardian or person in loco parentis shall be notified of the steps to be*
33 *taken to eliminate or reduce the child's absence.*

34 *(5)(A) Whenever a student exceeds the number of excessive*
35 *unexcused absences provided for in the district's or the state board's*
36 *student attendance policy, the school district or the adult education program*

1 shall notify the prosecuting authority and the community truancy board, and
2 the student's parents, guardians, or persons in loco parentis shall be
3 subject to a civil penalty ~~in an amount as a juvenile court or other court of~~
4 ~~competent jurisdiction~~ through a FINS action in circuit court, as authorized
5 under subdivision (a)(6)(A) of this section, may prescribe but not to exceed
6 five hundred dollars (\$500) plus costs of court and any reasonable fees
7 assessed by the court.

8 (B) The penalty shall be forwarded by the court to the
9 school or the adult education program attended by the student.

10 (6)(A)(i)~~(a)~~ Upon notification by the school district or the
11 adult education program to the prosecuting authority, the prosecuting
12 authority shall file in juvenile circuit court a ~~truancy~~ FINS petition
13 pursuant to § 9-27-310 or enter into a diversion agreement with the student
14 pursuant to § 9-27-323.

15 ~~(b) However, the prosecuting authority may~~
16 ~~file an action in another court of competent jurisdiction if the prosecuting~~
17 ~~authorities and the juvenile judge, upon agreement, have developed a written~~
18 ~~plan for prosecuting truant students outside of juvenile court by October 1,~~
19 ~~1997.~~

20 ~~(ii) For any action filed pursuant to a~~
21 ~~written plan or filed in juvenile~~ in circuit court to impose the civil
22 penalty set forth in subdivision (a)(5) of this section, the prosecuting
23 authority shall be exempt from all filing fees and shall take whatever action
24 is necessary to collect the penalty provided for therein.

25 ~~(B) Actions under this subsection (a) shall be filed in~~
26 ~~juvenile court as a matter of preference.~~

27 ~~(C)~~(B) Municipal attorneys may practice in ~~juvenile~~
28 circuit court for the limited purpose of filing petitions or entering into
29 diversion agreements as authorized by this subdivision (a)(6)~~(C)~~(B) if agreed
30 upon by all of the parties pursuant to subdivision (a)(6)(A) of this section.

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

35 (B)(i) When assessing penalties, the court shall be aware
36 of any available programs designed to improve the parent-child relationship

1 or parenting skills.

2 (ii) When practicable and appropriate, the court may
3 utilize mandatory attendance at the programs as well as community service
4 requirements in lieu of monetary penalties.

5 (8) As used in this section, "prosecuting authority" means:

6 (A) The elected district prosecuting attorney, or his
7 appointed deputy, for schools located in unincorporated areas of the county
8 or within cities not having a police or ~~municipal~~ district court; and means

9 (B) The prosecuting attorney of the city for schools
10 located within the city limits of cities having either a police court or a
11 ~~municipal~~ district court in which a city prosecutor represents the city for
12 violations of city ordinances or traffic violations.

13 (9) In any instance where it is found that the school district,
14 the adult education program, or the prosecuting authority is not complying
15 with the provisions of this section, the State Board of Education may
16 petition the circuit court to issue a writ of mandamus.

17 (b)(1)(A) Each public, private, or parochial school shall notify the
18 Department of Finance and Administration whenever a student fourteen (14)
19 years of age or older is no longer in school.

20 (B) Each adult education program shall notify the
21 department whenever a student sixteen (16) or seventeen (17) years of age has
22 left the program without receiving a high school equivalency certificate.

23 (2)(A) Upon receipt of notification, the department shall notify
24 the licensee by certified mail, return receipt requested, that his motor
25 vehicle operator's license will be suspended unless a hearing is requested in
26 writing within thirty (30) days from the date of notice.

27 (B) The licensee shall be entitled to retain or regain his
28 license by providing the department with adequate evidence that:

29 (i) The licensee is eighteen (18) years of age;

30 (ii) The licensee is attending school or an adult
31 education program; or

32 (iii) The licensee has obtained a high school
33 diploma or its equivalent.

34 (C)(i) In cases where demonstrable financial hardship
35 would result from the suspension of the learner's permit or driver's license,
36 the department may grant exceptions only to the extent necessary to

1 ameliorate the hardship.

2 (ii) If it can be demonstrated that the conditions
3 for granting a hardship were fraudulent, the parent, guardian, or person in
4 loco parentis shall be subject to all applicable perjury statutes.

5 (3) The department shall have the power to promulgate rules and
6 regulations to carry out the intent of this section and shall distribute to
7 each public, private, and parochial school and each adult education program a
8 copy of all rules and regulations adopted under this section.

9

10 SECTION 39. Arkansas Code § 9-28-407(h)(1)(O), concerning licensing of
11 child welfare agencies, is amended to read as follows:

12 (O) To ~~juvenile~~ circuit courts as provided for in the
13 Arkansas Juvenile Code of 1989, § 9-27-301 et seq.;

14

15 /s/ Martin/s/ Martin

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