

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: S3/7/17
A Bill

SENATE BILL 40

5 By: Senator A. Clark
6 By: Representatives Gates, Hammer
7

For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS IN THE JUVENILE CODE
10 CONCERNING THE PLACEMENT OF JUVENILES; AND FOR OTHER
11 PURPOSES.
12
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Subtitle

15 TO AMEND PROVISIONS IN THE JUVENILE CODE
16 CONCERNING THE PLACEMENT OF JUVENILES.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 9-27-355 is amended to read as follows:
22 9-27-355. Placement of juveniles.

23 (a) The court shall not specify a particular provider for placement of
24 any a foster child.

25 ~~(b)(1) A relative of a juvenile placed in the custody of the~~
26 ~~Department of Human Services shall be given preferential consideration for~~
27 ~~placement if the relative caregiver meets all relevant child protection~~
28 ~~standards and it is in the best interest of the juvenile to be placed with~~
29 ~~the relative caregiver.~~

30 (b)(1)(A) When the Department of Human Services takes custody of a
31 juvenile under § 12-18-1001, or when the court determines that a juvenile
32 shall be removed from his or her home under this subchapter, the department
33 shall conduct an immediate assessment to locate:

34 (i) A noncustodial parent of the juvenile;

35 (ii) Recommended relatives of the juvenile,
36 including each grandparent of the juvenile, and all parents of the juvenile's



1 sibling if the parent has custody of the sibling; and

2 (iii) Fictive kin identified by the juvenile as one
3 (1) or more persons who play or have a significant positive role in his or
4 her life.

5 (B) The duty of the department to conduct an investigation
6 under subdivision (b)(1)(A) of this section shall continue throughout the
7 case.

8 (C) During the assessment under subdivision (b)(1)(A) of
9 this section, the department shall:

10 (i) Inform in writing persons identified under
11 subdivisions (b)(1)(A)(i)-(iii) of this section of the pendency of the
12 proceeding and of the opportunity to obtain placement of the juvenile; and

13 (ii) Comply with the requirements of § 9-28-108.

14 (D) The department shall provide upon request by the
15 court, parties to the proceeding, or counsel for the parties to the
16 proceeding a record of the efforts made to locate relatives, fictive kin, or
17 other suitable persons described under subdivisions (b)(1)(A)(i)-(iv) of this
18 section and the results of the assessment, including the located person's:

19 (i) Name;

20 (ii) Last known address and telephone number;

21 (iii) Employer address; and

22 (iv) Other identifying or relevant information to
23 the extent known by the department.

24 (E) A relative or fictive kin identified by the department
25 under subdivision (b)(1)(A) of this section shall be given preferential
26 consideration for placement if the relative or fictive kin meets all relevant
27 protective standards and it is in the best interest of the juvenile to be
28 placed with the relative or fictive kin.

29 (F) In all placements, preferential consideration for a
30 relative or fictive kin shall be given at all stages of the case.

31 (G) If the court denies placement with a relative or
32 fictive kin, the court shall make specific findings of fact in writing
33 regarding the considerations given to the relative or fictive kin and the
34 reasons the placement was denied.

35 (H) The court shall not base its decision to place the
36 juvenile solely upon the consideration of the relationship formed between the

1 juvenile and a foster parent.

2 (2) Placement or custody of a juvenile in the home of a relative
3 or ~~other person~~ fictive kin shall not relieve the department of its
4 responsibility to actively implement the goal of the case.

5 (3)(A) The juvenile shall remain in a licensed or approved
6 foster home, shelter, or facility or an exempt child welfare agency as
7 defined ~~at~~ under § 9-28-402(12) until the home is opened as a regular foster
8 home, as a provisional foster home if the person is a relative to one (1) of
9 the children in the sibling group, including step-siblings, or the court
10 grants custody of the juvenile to the relative or ~~person~~ fictive kin as
11 described under subdivisions (b)(1)(A)(i)-(iii) of this section after a
12 written approved home study is presented to the court.

13 (B) For placement only with a relative or fictive kin:

14 (i) The juvenile and the juvenile's siblings or
15 step-siblings may be placed in the home of a relative or fictive kin on a
16 provisional basis for up to six (6) months pending the relative or fictive
17 kin's home being opened as a regular foster home;

18 (ii) If the relative or fictive kin opts to have his
19 or her home opened as a provisional foster home, the relative or fictive kin
20 shall not be paid a board payment until the relative or fictive kin meets all
21 of the requirements and his or her home is opened as a regular foster home;

22 (iii) Until the relative or fictive kin's home is
23 opened as a regular foster home, the relative or fictive kin may:

24 (a) Apply for and receive benefits that the
25 relative or fictive kin may be entitled to due to the placement of the
26 juvenile in the home, such as benefits under the Transitional Employment
27 Assistance Program, § 20-76-401, and the Supplemental Nutrition Assistance
28 Program (SNAP); and

29 (b) Receive child support or any federal
30 benefits paid on behalf of the juvenile in the relative or fictive kin's
31 home; and

32 (iv) If the relative or fictive kin's home is not
33 fully licensed as a foster home after six (6) months of the placement of the
34 juvenile and the siblings or step-siblings in the home:

35 (a) The department shall remove the juvenile
36 and any of the siblings or step-siblings from the relative or fictive kin's

1 home and close the relative or fictive kin's provisional foster home; or

2 (b) The court shall remove custody from the
3 department and grant custody of the juvenile to the relative or fictive kin
4 subject to the limitations outlined in subdivision (b)(4) of this section.

5 (4) If the court grants custody of the juvenile and any siblings
6 *or step-siblings to the relative or ~~other person~~ fictive kin as described*
7 *under subdivisions (b)(1)(A)(i)-(iii) of this section:*

8 (A)(i) The juvenile and any siblings or step-siblings
9 shall not be placed back in the custody of the department while remaining in
10 *the home of the relative or ~~other person~~ fictive kin as described under*
11 *subdivisions (b)(1)(A)(i)-(iii) of this section.*

12 (ii) The juvenile and any siblings or step-siblings
13 *shall not be removed from the custody of the relative or ~~other person~~ fictive*
14 *kin as described under subdivisions (b)(1)(A)(i)-(iii) of this section,*
15 *placed in the custody of the department, and then remain or be returned to*
16 *the home of the relative or ~~other person~~ fictive kin while remaining in the*
17 *custody of the department;*

18 (B) *The relative or ~~other person~~ fictive kin as described*
19 *under subdivisions (b)(1)(A)(i)-(iii) of this section shall not receive any*
20 *financial assistance, including board payments, from the department, except*
21 *for financial assistance for which the relative or fictive kin has applied*
22 *and for which the relative or ~~other person~~ fictive kin qualifies under the*
23 *program guidelines, such as the Transitional Employment Assistance Program, §*
24 *20-76-401, food stamps, Medicaid, and the federal adoption subsidy; and*

25 (C) The department shall not be ordered to pay the
26 equivalent of board payments, adoption subsidies, or guardianship subsidies
27 *to the relative or ~~other person~~ fictive kin as described under subdivisions*
28 *(b)(1)(A)(i)-(iii) of this section as reasonable efforts to prevent removal*
29 *of custody from the relative or fictive kin.*

30 (c)(1) Juveniles who are in the custody of the department shall be
31 allowed trial placements with parents or the person from whom custody was
32 removed for a period not to exceed sixty (60) days.

33 (2)(A) At every stage of the case, the court shall consider the
34 least restrictive placement for the juvenile and assess safety concerns that
35 prevent either a trial home placement or the juvenile from being returned to
36 or placed in the custody of the parent of the juvenile.

1 (B) The court shall detail the safety concerns in
2 subdivision (c)(2)(A) of this section in its written order.

3 (C) Failure to complete a case plan is not a sufficient
4 reason in and of itself to deny the placement of the juvenile in the home of
5 a parent.

6 (D) Trial home placements may be made with parents or the
7 person from whom custody was removed.

8 ~~(2)~~(3) At the end of sixty (60) days, the court shall either
9 *place custody of the juvenile with the parent or the person from whom custody*
10 *was removed, or the department shall return the juvenile to a licensed or*
11 *approved foster home, shelter, or facility or an exempt child welfare agency*
12 *as defined in § 9-28-402(12).*

13 (d) When a juvenile leaves the custody of the department and the court
14 grants custody to the parent or another person, the department is no longer
15 legal custodian of the juvenile, even if the juvenile division of circuit
16 court retains jurisdiction.

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18 /s/A. Clark
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